

TITLE 7

Licensing and Regulation

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Chapter 1

Licensing of Dogs and Cats; Regulation of Animals

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Sec. 7-1-1 Dog and Cat Licenses Required; Definitions.

- (a) **License Required.** It shall be unlawful for any person in the City of Prescott to own, harbor or keep any dog or cat more than five (5) months of age after July 1 of the license year without complying with the provisions of this Chapter relating to the listing, licensing and tagging of the same.
- (b) **Definitions.** In this Chapter, unless the context or subject matter otherwise require:

- (1) **Owner.** Any person owning, harboring or keeping a dog or cat and the occupant of any premises on which a dog or cat remains or to which it customarily returns daily for a period of ten (10) days; such person is presumed to be harboring or keeping the dog or cat within the meaning of this Section.
- (2) **At Large.** To be off the premises of the owner and not under the control of some person by leash. A dog or cat within an automobile of it-, owner, or in an automobile of any other person with the consent of the owner of said dog or cat, shall be deemed to be upon the owner's premises.
- (3) **Dog.** Any canine, regardless of age or sex.
- (4) **Cat.** Any feline, regardless of age or sex.
- (5) **Neutered,** A dog or cat having nonfunctional reproductive organs.
- (6) **Animal.** Mammals, reptiles and birds.
- (7) **Cruel.** Causing unnecessary and excessive pain or suffering or unjustifiable injury or death.
- (8) **Law Enforcement Officer.** Has that meaning as appears in Sec. 967.0(5), Wis. Stats., and includes a humane or animal control officer under Sec. 58.07, Wis. Stats., but does not include a conservation warden appointed under Sec. 23. 10, Wis. Stats.
- (9) **Farm Animal.** Any warm-blooded animal normally raised on farms in the United States and used for food or fiber.
- (10) **Pet.** An animal kept and treated as a pet.
- (11) **Residential Lot.** A parcel zoned as residential, occupied or to be occupied by a dwelling, platted or unplatted, and under common ownership. For the purpose of this Chapter, any vacant parcel or parcels adjoining a dwelling and under the same ownership shall constitute one (1) lot.

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

Sec. 7-1-2 Rabies Vaccination Required for Dogs and Cats.

- (a) **Rabies Vaccination.** The owner of a dog or cat shall have the dog or cat vaccinated against rabies by a veterinarian within thirty (30) days after the dog or cat reaches four (4) months of age and revaccinated within one (1) year after the initial vaccination. If the owner obtains the dog or cat or brings the dog or cat into the City of Prescott after the dog or cat has reached four (4) months of age, the owner shall have the dog or cat vaccinated against rabies within thirty (30) days after the dog or cat is brought into the City unless the dog or cat has been vaccinated as evidenced by a current certificate of rabies vaccination. The owner of a dog or cat shall have the dog or cat revaccinated against rabies by a veterinarian before the date of that immunization expires as stated on the certificate of vaccination or, if no date is specified, within two (2) years after the previous vaccination. The certificate of vaccination shall meet the requirements of Section 95.21(2), Wis. Stats.

- (b) **Issuance of Certificate of Rabies Vaccination.** A veterinarian who vaccinates a dog or cat against rabies shall complete and issue to the owner a certificate of rabies vaccination bearing a serial number and in the form approved by the City stating the owner's name and address, the name, sex, spayed or unspayed, neutered or unneutered, breed and color of the dog or cat, the date of the vaccination, the type of rabies vaccination administered and the manufacturer's name and serial number, the date that the immunization expires as specified for that type of vaccine by the Center for Disease Control of the U.S. Department of Health and Human Services and the City.
- (c) **Copies of Certificate.** The veterinarian shall keep a copy of each certificate of rabies vaccination in a file maintained for this purpose until the date that the immunization expires or until the dog or cat is revaccinated, whichever occurs first.
- (d) **Rabies Vaccination Tag.** After issuing the certificate of rabies vaccination, the veterinarian shall deliver to the owner a rabies vaccination tag of durable material bearing the same serial number as the certificate, the year the vaccination was given and the name, address and telephone number of the veterinarian.
- (e) **Tag to be Attached.** The owner shall attach the rabies vaccination tag or a substitute tag to a collar and a collar with the tag attached shall be kept on the dog or cat at all times, but this requirement does not apply to a dog or cat during competition or to a dog or cat securely confined indoors. The substitute tag shall be of a durable material and contain the same information as the rabies vaccination tag. The requirements of this paragraph do not apply to a dog or cat, which is not required to be vaccinated under Subsection (a).
- (f) **Duplicate Tag.** The veterinarian may furnish a Dew rabies vaccination tag with a new serial number to an owner in place of the original tag upon presentation of the certificate of rabies vaccination. The veterinarian shall then indicate the new tag number on the certificate and keep a record in the file.
- (g) **Cost.** The owner shall pay the cost of the rabies vaccination and the cost associated with the issuance of a certificate of rabies vaccination and the delivery of a rabies vaccination tag.

State Law Reference: Sec. 95.21, Wis. Stats.

Sec. 7-1-3 Issuance of Dog and Cat Licenses.

- (a) **Licensing of Dogs and Cats.**
 - (1) It shall be unlawful for any person in the City of Prescott to own, harbor or keep any dog or cat more than five (5) months of age without complying with the provisions of Section 174.05 through Section 174. 10 Wis. Stats., relating to the listing, licensing and tagging of the same.
 - (2) The owner of any dog or cat more than five (5) months of age on January 1 of any year, or five (5) months of age within the license year, shall annually, or on or before the date the dog and cat becomes five (5) months of age, pay a license tax and obtain a license.
 - (3) The minimum license tax under this Section shall be as prescribed in Section 1-3-1 for spayed females or neutered males. The minimum fee for unspayed or unneutered animals shall be as prescribed in Section 1-3-1. These amounts shall

be reduced by one-half (1/2) if the animal became five (5) months of age after July 1 during the license year. The license year shall commence January 1 and end December 31.

- (4) Upon payment of the required license tax and upon presentation of evidence that the dog and cat is currently immunized against rabies, as required by Section 7-1-2 of this Chapter, the City Clerk-Treasurer shall complete and issue to the owner a license for such dog and cat containing all information required by state law. The City Clerk Treasurer shall also deliver to the owner, at the time of issuance of the license, a tag of durable material bearing the same serial number as the license, the name of the county in which issued and the license year.
- (5) The owner shall securely attach the tag to a collar and the collar with the tag attached shall be kept on the dog and cat for which the license is issued at all times, except as provided in Section 7-1-2(e).
- (6) The fact that a dog and cat is without a tag attached to the dog and cat by means of a collar shall be presumptive evidence that the dog and cat is unlicensed. Any City law enforcement or humane officer shall seize, impound or restrain any dog or cat for which a dog or cat license is required which is found without such tag attached.
- (7) Notwithstanding the foregoing, every dog or cat specifically trained to lead blind or deaf persons is exempt from the dog or cat license tax, and every person owning such a dog shall receive annually a free dog or cat license from the City Clerk-Treasurer upon application therefore.

(b) **Kennel Licenses.**

- (1) Any person who keeps or operates a kennel may, instead of the license tax for each dog required by this Chapter, apply for a kennel license for the keeping or operating of the kennel. Such person shall pay for the license year a license tax fee as prescribed in Section 1-3-1 for a kennel of twelve (12) or fewer dogs and an additional fee as prescribed in Section 1-3-1 for each dog in excess of twelve (12). Upon payment of the required kennel license tax and, if required by the City, upon presentation of evidence that all dogs over five (5) months of age are currently immunized against rabies, the City Clerk-Treasurer shall issue the kennel license and a number of tags equal to the number of dogs authorized to be kept in the kennel. Kennels may only be located in commercial and/or residential areas following a public hearing and approval by the Common Council utilizing the conditional use procedures prescribed in the City's Zoning Code; the Council may attach conditions to such approval as a conditional use under the City's Zoning Code.
- (2) The owner or keeper of a kennel shall keep at all times a kennel license tag attached to the collar of each dog over five (5) months old kept by the owner or keeper under a kennel license, but this requirement does not apply to a show dog during competition, to a dog securely confined indoors or to a dog securely confined in a fenced area. These tags may be transferred from one dog to another within the kennel whenever any dog is removed from the kennel. The rabies vaccination tag or substitute tag shall remain attached to the dog for which it is issued at all times, but this requirement does not apply to a show dog during

competition, to a dog securely confined indoors or to a dog securely confined in a fenced area. No dog bearing a kennel tag shall be permitted to stray or to be taken anywhere outside the limits of the kennel unless the dog is on a leash or temporarily for the purposes of hunting, breeding, trial, training or competition.

- (3) The term "kennel" means any establishment wherein or whereon three (3) or more dogs are kept.
- (4) No kennel license shall be issued to the keeper or operator of a kennel who fail,,; to provide proper food and drink and proper shelter for the dogs in said kennel or who neglects or abandons said dogs. The Chief of Police or other designated official shall investigate any complaints regarding the failure to maintain proper standards or investigate any kennel premises upon his own initiative. Expressly incorporated by reference in this Section as minimum standards for kennel keepers or operator are the relevant provisions of Chapter 948 of the Wisconsin Statutes.

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

Sec. 7-1-4 Late Fees.

The City Clerk-Treasurer shall assess and collect a late fee as prescribed in Section 1-3-1 from every owner of a dog or cat five (5) months of age or over if the owner failed to obtain a license prior to April 1 of each year, or within thirty (30) days of acquiring ownership of a licensable dog or cat or if the owner failed to obtain a license on or before the dog or cat reached licensable age. Said late fee shall be charged in addition to the required license fee.

Sec. 7-1-5 Rabies Quarantine.

- (a) **Dogs and Cats Confined.** If a district is quarantined for rabies, all dog or cats within the City shall be kept securely confined, tied, leashed or muzzled. Any dog or cat not confined, tied, leashed or muzzled is declared a public nuisance and may be impounded. All officers shall cooperate in the enforcement of the quarantine. The City Clerk-Treasurer shall promptly post in at least three (3) public places in the City notices of quarantine.
- (b) **Exemption of Vaccinated Dog or Cats from City Quarantine.** A dog or cat which is immunized currently against rabies, as evidenced by a valid certificate of rabies vaccination or other evidence, is exempt from the City quarantine provisions of Subsection (a) if a rabies vaccination tag or substitute tag is attached to the dog's or cat's collar.
- (c) **Quarantine or Sacrifice of an Animal Suspected of Biting a Person or Being Infected or Exposed to Rabies.**
 - (1) *Quarantine or sacrifice of dog or cat.* An animal control or law enforcement officer shall order a dog or cat quarantined if the officer has reason to believe that the animal bit a person, is infected with rabies or has been in contact with a rabid animal. If a quarantine cannot be imposed because the dog or cat cannot be

captured, the officer may kill the animal. The officer shall attempt to kill the animal in a humane manner and in a manner which avoids damage to the animal's head.

- (2) ***Sacrifice of other animals.*** An officer may order killed or may kill an animal other than a dog or cat if the officer has reason to believe that the animal bit a person or is infected with rabies.

(d) **Quarantine of Dog or Cat.**

- (1) ***Delivery to isolation facility or quarantine on premises of owner.*** An animal control or law enforcement officer who orders a dog or cat to be quarantined shall deliver the animal or shall order the animal delivered to an isolation facility as soon as possible but no later than twenty-four (24) hours after the original order is issued or the officer may order the animal to be quarantined on the premises of the owner if the animal is immunized currently against rabies as evidenced by a valid certificate of rabies vaccination or other evidence.
- (2) ***Health risk to humans.*** If a dog or cat is ordered to be quarantined because there is reason to believe that the animal bit a person, the custodian of an isolation facility or the owner shall keep the animal under strict isolation under the supervision of a veterinarian for at least ten (10) days after the incident occurred. In this paragraph, "supervision of a veterinarian" includes, at a minimum, examination of the animal on the first day of isolation, on the last day of isolation and on one (1) intervening day. If the observation period is not extended and if the veterinarian certifies that the dog or cat has not exhibited any signs of rabies, the animal may be released from quarantine at the end of the observation period.
- (3) ***Risk to animal health.***
 - a. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal and if the dog or cat is not currently immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for one hundred eighty (180) days. The owner shall have the animal vaccinated against rabies between one hundred fifty-five (155) and one hundred sixty-five (165) days after the exposure to a rabid animal.
 - b. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal but if the dog or cat is immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for sixty (60) days. The owner shall have the animal revaccinated against rabies as soon as possible after exposure to a rabid animal.
- (4) ***Sacrifice of a dog or cat exhibiting symptoms of rabies.*** If a veterinarian determines that a dog or cat exhibits symptoms of rabies during the original or extended observation period, the veterinarian shall notify the owner and the officer who ordered the animal quarantined and the officer or veterinarian shall kill the animal in a humane manner and in a manner which avoids damage to the animal's head. If the dog or cat is suspected to have bitten a person, the veterinarian shall notify the person or the person's physician.

- (e) **Delivery of Carcass; Preparation; Examination by Laboratory of Hygiene.** An officer who kills an animal shall deliver the carcass to a veterinarian. The veterinarian or

local health department shall prepare the carcass, properly prepare and package the head of the animal in a manner to minimize deterioration, arrange for delivery by the most expeditious means feasible of the head of the animal to the State Laboratory of Hygiene and dispose of or arrange for the disposal of the remainder of the carcass in a manner which minimizes the risk or exposure to any rabies virus. The Laboratory of Hygiene shall examine the specimen and determine if the animal was infected with rabies. The State Laboratory of Hygiene shall notify the City, the veterinarian which prepared the carcass and, if the animal is suspected to have bitten a person, that person or the person's physician.

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

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

- (a) **Restrictions.** It shall be unlawful for any person within the City of Prescott to own, harbor or keep any dog or cat which:
 - (1) Habitually pursues any vehicle upon any public street, alley or highway in the City.
 - (2) Assaults or attacks any person as described in Subsection (b) or destroys property.
 - (3) Is at large within the limits of the City.
 - (4) Habitually barks or howls to the annoyance of any person or persons. (See Section 7- 1 -1 1.)
 - (5) Kills, wounds or worries any domestic animal.
 - (6) Is known by such person to be infected with rabies or to have been bitten by an animal known to have been infected with rabies.
 - (7) In the case of a dog or cat, is unlicensed.
- (b) **Vicious Dogs and Animals.**
 - (1) No vicious dog shall be allowed off the premises of its owner unless muzzled or on leash in charge of the owner or a member of the owner's immediate family over sixteen (16) years of age. For purposes of enforcing this Section, a dog shall be deemed as being of a vicious disposition if, within any twelve (12) month period it bites two (2) or more persons or inflicts injury requiring medical attention to one (1) person in unprovoked circumstances off the owner's premises.

- (2) No person shall harbor or permit to remain on his premises any animal that is habitually inclined toward attacking persons or animals, destroying property, barking excessively or making excessive noises or running after motorized or non-motorized vehicles.
- (c) **Animals Running at Large.**
- (1) No person having in his possession or ownership any animal or fowl shall allow the same to run at large within the City. The owner of any animal, whether licensed or unlicensed, shall keep his animal tied or enclosed in a proper enclosure so as not to allow said animal to interfere with the passing public or neighbors. Any animal running at large shall be seized and impounded by an animal control or law enforcement officer.
- (2) A dog or cat shall not be considered to be running at large if it is on a leash and under control of a person physically able to control it or is trained and in the immediate company of a person to which it immediately responds and obeys (e.g., a dog playing a game of fetch in a field, or walking alongside its owner or a member of the owner's immediate family) if such person is over the age of twelve (12) years.
- (d) **Owner's Liability for Damage Caused by Dogs; Penalties.** The provisions of Section 174.02, Wis. Stats., relating to the owner's liability for damage caused by dog or cats together with the penalties therein set forth are hereby adopted and incorporated herein by reference.
- (e) **Animals Restricted on Public Grounds and Cemeteries.** No dog or cat shall be permitted in any public playground, school grounds, public park, beach, or swimming area within the City unless such dog or cat is on a leash and under control. Dogs and cats are prohibited from being in cemeteries, Every dog specially trained to lead blind persons shall be exempt from this Section.

Cross-Reference: Section 7-1-8.

Sec. 7-1-7 Impoundment of Animals.

- (a) **Animal Control Agency.**
- (1) The City of Prescott may contract with or enter into an agreement with such person, persons, organization or corporation to provide for the operation of an animal shelter, impoundment of stray animals, confinement of certain animals, disposition of impoundment animals and for assisting in the administration of rabies vaccination programs.
- (2) The City of Prescott does hereby delegate any such animal control agency the authority to act pursuant to the provisions of this Section.
- (b) **Impounding of Animals.** In addition to any penalty hereinafter provided for a violation of this Chapter, any animal control or law enforcement officer may impound any dog, cat or other animal which habitually pursues any vehicle upon any street, alley or highway of the City, assaults or attacks any person, is at large within the City, habitually barks, cries or howls, kills, wounds or worries any domestic animal or is infected with rabies. In

order for an animal to be impounded, the impounding office must see or hear the violation of this Section or have in his/her possession a signed statement of a complaining witness alleging the facts regarding the violation.

- (c) **Claiming Animal; Disposal of Unclaimed Animals.** After seizure of animals under this Section by a law enforcement or animal control officer, the animal shall be impounded. The officer shall notify the owner, personally or through the U.S. Mail, if such owner be known to the officer or can be ascertained with reasonable effort. If within seven (7) days after such notice the owner does not claim such animal, the officer may authorize sale of the animal in a proper and humane manner; provided, if an animal before being impounded has bitten a person, the animal shall be retained in the Animal Shelter for ten (10) days for observation purposes. Within such times, the owner may reclaim the animal upon payment of impoundment fees, plus the actual cost of boarding the animal for each day or fraction thereof the dog or cat has been so impounded. Owners of unlicensed dog or cat shall also obtain a license prior to release of art impounded animal. No animal shall be released from the animal shelter without being properly licensed as required by state law or City Ordinance.
- (d) **City Not Liable for Impounding Animals.** The City and/or its animal control agency shall not be liable for the death of any animal which has been impounded or disposed of pursuant to this Section.

Sec. 7-1-8 Animals Restricted on Public Grounds and Cemeteries.

No dog, cat or any other pets or farm animals shall be permitted in any public playground, school grounds, public park, beach, or swimming area within the City of Prescott unless on a leash and under the immediate and direct control of the owner. Dogs, cats and other pets are prohibited from being in cemeteries. The owner shall pick up any litter caused by the animal. The owner may not allow the animal to intimidate other persons on the public grounds.

Sec. 7-1-9 Duty of Owner in Case of Dog or Cat Bite.

Every owner or person harboring or keeping a dog or cat who knows that such dog or cat has bitten any person shall immediately report such fact to the Chief of Police and shall keep such dog or cat confined for not less than ten (10) days or for such period of time as the animal control officer shall direct. The owner or keeper of any such dog or cat shall surrender the dog or cat to a law enforcement, health, or animal control officer upon demand for examination.

Sec. 7-1-10 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 be upon any parkway or private lands or premises without the permission of the owner of such premises and break, bruise, tear up, crush or injure any lawn, flower bed, plant, shrub, tree or garden in any manner whatsoever, or to defecate or urinate thereon.

Sec. 7-1-11 Barking Dogs or Crying Cats.

It shall be unlawful for any person knowingly to keep or harbor any dog which habitually barks, howls or yelps, or any cat which habitually cries or howls to the great discomfort of the peace and quiet of the neighborhood or in such manner as to materially disturb or annoy persons in the neighborhood who are of ordinary sensibilities.

Sec. 7-1-12 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 humpback turtle (*lepidochelys olivacea*), Atlantic green turtle (*chelonina mydas*), Mexican ridley turtle (*lepidochelys kernpi*).
 - (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 of 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/her 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) Wolves (Canis lupus).
 - (22) Poisonous insects.
 - (23) Except in properly zoned districts, horses, mules, ponies, llamas, donkeys, cows, pigs, goats, sheep, chickens, poultry or any animal raised for fur-bearing purposes unless otherwise permitted elsewhere in this Code.
- (d) **Exceptions.** 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 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.

- (e) **Farm Animals; Miniature Pigs.** Except as provided in Section 7-1-23 and on properties zoned in an agricultural classification, no person shall own, keep, harbor or board any cattle, horses, ponies, swine, goats, sheep, fowl [more than two (2)] or rabbits [more than four (4)].

Sec. 7-1-13 Sale of Rabbits, Chicks or Artificially Colored Animals.

- (a) No person may sell, offer for sale, raffle, give as a prize or premium, use as an advertising device or display living chicks, ducklings, other fowl or rabbits that have been dyed or otherwise colored artificially.
- (b) (1) No person may sell, offer for sale, barter or give away living chicks, ducklings or other fowl without providing proper brooder facilities for the care of such chicks, ducklings or other fowl during the time they are in such person's care, custody or control.
- (2) No retailer, as defined in Sec. 100.30(2)(g), Wis. Stats., may sell, offer for sale, barter or give away living baby rabbits, baby chicks, ducklings or other fowl under two (2) months of age, in any quantity less than six (6), unless the purpose of selling these animals is for agricultural, wildlife or scientific purposes.

State Law Reference: Section 948.11, Wis. Stats.

Sec. 7-1-14 Providing Proper Food and Drink to Confined Animals.

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

State Law Reference: Section 948.13, Wis. Stats.

Sec. 7-1-15 Providing Proper Shelter.

- (a) **Proper Shelter.** No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter as prescribed in this Section. In the case of farm animals, nothing in this Section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices in the particular county where the animal or shelter is located.
- (b) **Indoor Standards.** Minimum indoor standards of shelter shall include:

- (1) **Ambient temperatures.** The ambient temperature shall be compatible with the health of the animal.
- (2) **Ventilation.** Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.
- (c) **Outdoor Standards.** Minimum outdoor standards of shelter shall include:
 - (1) **Shelter from sunlight.** When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, "caged" does not include farm fencing used to confine farm animals.
 - (2) **Shelter from Inclement weather.**
 - a. **Animals** generally. Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.
 - b. **Dogs.** If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size to accommodate the dog shall be provided.
- (d) **Space Standards.** Minimum space requirements for both indoor and outdoor enclosures shall include:
 - (1) **Structure strength.** The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.
 - (2) **Space requirements.** Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.
- (e) **Sanitation Standards.** Minimum standards of sanitation for both indoor and outdoor enclosures shall include periodic cleaning to remove excreta and other waste materials, dirt and trash so as to minimize health hazards.

State Law Reference: Section 948.14, Wis. Stats.

Sec. 7-1-16 Neglected or Abandoned Animals.

- (a) **Neglected or Abandoned Animals.**
 - (1) No person may abandon any animal.
 - (2) Any law enforcement or animal control officer may remove, shelter and care for an animal found to be cruelly exposed to the weather, starved or denied adequate water, neglected, abandoned or otherwise treated in a cruel manner and may deliver such animal to another person to be sheltered, cared for and given medical attention, if necessary, In all cases the owner, if known, shall be immediately notified and such officer, or other person, having possession of the animal shall have a lien thereon for its care, keeping and medical attention and the expense of notice.

- (3) If the owner or custodian is unknown and cannot, with reasonable effort, be ascertained or does not, within five (5) days after notice, redeem the animal by paying the expenses incurred, it may be treated as a stray and dealt with as such.
 - (4) Whenever in the opinion of any such officer an animal is hopelessly injured or diseased so as to be beyond the probability of recovery, it shall be lawful for such officer to kill such animal and the owner thereof shall not recover damages for the killing of such animal unless he shall prove that such killing was unwarranted.
 - (5) Section 948.16, Investigation of Cruelty Complaints, and Section 948.17, Wis. Stats., Expenses of Investigation, are hereby adopted by reference and made a part of this Chapter.
- (b) **Injured Animals.** No person who owns, harbors or keeps any animal shall fail to provide proper medical attention to such animal when and if such animal becomes sick or injured. In the event the owner of such animal cannot be located, the City or any animal control agency with whom the City has an agreement or contract shall have the authority to take custody of such animal for the purpose of providing medical treatment, and the owner thereof shall reimburse the person or organization for the costs of such treatment.

State Law Reference: Sections 948.15, 948.16 and 948.17, Wis. Stats.

Sec. 7-1-17 Cruelty to Animals and Birds Prohibited.

- (a) **Acts of Cruelty Prohibited.** No person except a law enforcement officer or humane officer in the pursuit of his/her duties shall, within the City, shoot or kill or commit an act of cruelty to any animal or bird or disturb any bird's nests or bird's eggs.
- (b) **Leading Animal From Motor Vehicle.** No person shall lead any animal upon a City street from a motor vehicle or from a trailer or semi-trailer drawn by a motor vehicle.
- (c) **Use of Poisonous and Controlled Substances.** No person may expose any pet animal owned by another to any known poisonous substance or controlled substance listed in Sec. 161.14, Wis. Stats., whether mixed with meat or other food or not, where it is reasonable to anticipate the substance may be eaten by such animal or for the purpose of harming the animal. This Subsection shall not apply to poison used on one's own premises and designed for the purpose of rodent and pest extermination, nor the use of a controlled substance used in accepted veterinarian practice or in research by persons or organizations regularly engaged in such research.
- (d) **Use of Certain Devices Prohibited.** No person may directly or indirectly, or by aiding, abetting or permitting the doing thereof either put, place, fasten, use or fix upon or to any animal used or readied for use for a work purpose or for use in an exhibition, competition, rodeo, circus or other performance any of the following devices: a bristle bur. tack bur or like device; or a poling device used to train a horse to jump which is charged with electricity or to which have been affixed nails, tacks or other sharp points.
- (e) **Shooting at Caged or Staked Animals.** No person may instigate, promote, aid or abet as a principal, agent, employee, participant or spectator, or participate in the earnings from or intentionally maintain or allow any place to be used for the shooting, killing or wounding with a firearm or any deadly weapon any animal that is tied, staked out, caged or otherwise intentionally confined in a man-made enclosure, regardless of size.

Sec. 7-1-18 Limitation on Number of Dogs and Cats.

- (a) **Purpose.** The keeping of a large number of dogs and cats within the City of Prescott for a considerable period of time detracts from and, in many instances, is detrimental to, healthful and comfortable life in such areas. The keeping of a large number of dogs/cats is, therefore, declared a public nuisance.
- (b) **Number Limited.** No more than three (3) three dogs and (3) three cats may be kept in one household, except a litter of offspring from one (1) female dog/cat may be kept for not more than sixteen (16) weeks from birth or when a kennel license has been issued.

Sec. 7-1-19 Animal Feces.

- (a) **Person Walking Animal Required to Remove Fecal Matter.** It shall be unlawful for any person to cause or permit any animal, specifically including, but not limited to, dogs, horses, and cats, to be on property, public or private, not owned or possessed by such person unless such person has in his immediate possession an appropriate device for scooping excrement and an appropriate depository for the transmission of excrement to a receptacle located upon property owned or possessed by such person. Any person causing or permitting a dog or cat, horse, or cat to be on property not owned or possessed by such person shall immediately remove all excrement of such dog, horse, or cat to a receptacle located upon property owned or possessed by such person. No person shall permit their dog or cat or other animal to excrete feces upon public rights-of-way or in any park in the City. This Section shall not apply to a person who is visually or physically handicapped.
- (b) **Accumulation of Fecal Matter Prohibited on Private Yards.** The owner or person in charge of the dog or cat must also prevent accumulation of animal waste on his own property by regularly patrolling and properly disposing of the fecal matter.

Sec. 7-1-20 Trapping of Animals.

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

Sec. 7-1-21 Pit Bulls and Other Dangerous Animals.

- (a) **Keeping of Animals Prohibited.** It shall be unlawful to keep, harbor, own or in any way possess within the corporate limits of the City of Prescott.
- (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.
 - (2) Any animal having poisonous bites.
 - (3) Any pit bull dog provided that pit bull dogs registered with the City on the day this Section becomes effective may be kept within the City subject to the standards and requirements set forth in Subsection (b) of this Section. "Pit bull dog" as that term is used in this Section is defined to mean:
 - a. The Staffordshire bull terrier breed of dog;
 - b. The American pit bull terrier breed of dog;
 - c. The American Staffordshire terrier breed of dog;
 - d. Any dog which has the appearance and characteristics of being predominantly of the breeds of Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier, or a combination of any of these breeds.
- (b) **Keeping of Registered Pit Bulls.** The provisions of Subsection (a) are not applicable to owners, keepers or harbors of pit bull dogs registered with the City of Prescott keeping, owning or harboring of such dogs is however subject to the following conditions:
- (1) **Leash and Muzzle.** No person shall permit a registered pit bull dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four (4) feet in length. No person shall permit a pit bull dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of animal used or readied for use for a work purpose or for use in an exhibition, competition, rodeo, circus or other performance any of the following devices: a bristle bur, tack bur or like device; or a poling device used to train a horse to jump which is charged with electricity or to which have been affixed nails, tacks or other sharp point.,;.
- (e) **Shooting at Caged or Staked Animals.** No person may instigate, promote, aid or abet as a principal, agent, employee, participant or spectator, or participate in the earnings from or intentionally maintain or allow any place to be used for the shooting, killing or wounding with a firearm or any deadly weapon any animal that is tied, staked out, caged or otherwise intentionally confined in a man-made enclosure, regardless of size.

Sec. 7-1-22 Keeping of Bees.

- (a) It shall be unlawful for any person to establish or maintain any hive, stand or box where bees are kept or keep any bees in or upon any premises within the corporate limits of the City of Prescott unless the bees are kept in accordance with the following provisions:

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

Sec. 7-1-23 Vietnamese Potbellied Pigs.

- (a) **Definitions.** As used in this Section, the following words and phrases shall have the following meanings, unless the context clearly indicates that a different meaning is intended:
- (1) *Vietnamese Potbellied Pig* shall mean a purebred Vietnamese Potbellied Pig registered through a North American Vietnamese Potbellied Pig Registry, which does not exceed one hundred (100) pounds in weight.
- (b) **License Required/Fee.** It is unlawful for any person, party, firm or corporation to keep or maintain within the City of Prescott limits a Vietnamese Potbellied Pit without first having obtained a license from the City Clerk-Treasurer and being in compliance with all provisions of this Section. The fee for a license issued hereunder or renewal thereof shall be as prescribed in Section 1-3-1 per calendar year or fraction thereof. Excepted from the license requirement is any law enforcement agency or agency under contract with the City to care for stray or unwanted animals.
- (c) **License/Application.**
- (1) Any applicant for a license or renewal thereof under this Section shall file with the City Clerk-Treasurer a fully executed application on a form prescribed by the City Clerk-Treasurer, accompanied by the annual license fee.
 - (2) No licenses or renewal thereof shall issue hereunder until:
 - a. A Certificate of Purebred Registration is filed with the Clerk-Treasurer.
 - b. There has been an inspection by a City law enforcement officer or the Building Inspector of the premises being licensed and a determination by said sanitarian that all requirements of this Section, and other applicable general and zoning ordinances, have been met.
 - c. There is an adequate means of restraining animals from running at large or disturbing the peace.
 - (3) Any license or renewal thereof issued hereunder shall be for a calendar year or portion thereof. Licenses must be renewed each calendar year on or before the 31st

day of January. Licenses shall not be assignable or transferable either to another person, party, firm or corporation or for another location.

- (4) When issued, a license shall be kept upon the licensed premises and exhibited, upon request, to any City personnel requesting to examine it and having authority to enforce this Section.
 - (5) Only one (1) Vietnamese Potbellied Pig may be at any premises.
- (d) **License Requirements.** Licensee shall comply with the following as a condition of obtaining and maintaining a license:
- (1) Animal feces to be collected on a daily basis and stored in a sanitary receptacle. Animals shall not be brought, or permitted to be, on property, public or private, not owned or possessed by the owner or person in charge of the animal, unless such person has in his/her immediate possession an appropriate device for scooping excrement and an appropriate depository for the transmission of excrement to a receptacle located upon property owned or possessed by such person.
 - (2) When sunlight is likely to cause overheating to discomfort, sufficient shade shall be provided to allow an animal kept outdoors to protect itself from the direct rays of the sun.
 - (3) An animal kept outdoors shall be provided with access to shelter to allow it to remain dry during rain or snow. Animals may be kept outdoors only if contained in a fenced enclosure sufficient for purposes of restraint.
 - (4) When the atmospheric temperature is less than fifty degrees Fahrenheit (50°F), an animal shall be kept indoors at a temperature no less than fifty degrees Fahrenheit (50°F), except for temporary ventures which do not endanger the animals health.
 - (5) An effective program for the control of insects, ectoparasites, avian and mammalian pests shall be established and maintained where a problem.
 - (6) Animals shall be fed and watered at least once a day, except as otherwise might be required to provide adequate veterinary care. The food shall be free from contamination, wholesome, palatable and of sufficient quality and nutritive value to meet the normal daily requirements for the condition and size of the animal. Food receptacles shall be accessible to the animal and shall be located so as to minimize contamination by excreta. Feeding pans shall be durable and kept clean. The food receptacles shall be cleaned daily. 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 as needed, but at least once per week, to prevent molding, deterioration or caking of feed.
 - (7) Animals may not be permitted to exceed one hundred (100) pounds in weight.
 - (8) Animals shall be examined by a veterinarian within a period of sixty (60) days prior to a new license application being filed, The animal may be licensed only upon a written statement from a veterinarian as to:
 - a. The animal's weight.
 - b. The animal has received all recommended vaccinations and boosters.
 - c. The animal is asymptomatic respecting disease or has a disease, which is not contagious and is receiving appropriate treatment.
 - d. The animal's tusks, if any, have been removed or trimmed so as not to endanger any person or animal.

- e. The animal has passed a pseudorabies test administered in accordance with application state regulations.
- (9) The animal shall not be permitted to run at large. "Run at large" shall mean the presence of an animal which is not on a leash of six (6) feet or less on any public property or thoroughfare or on any private property. An animal may be unleashed on private property, with the permission of the property owner, in a fenced enclosure sufficient for purposes of restraint. Animals, which are not leashed in a motor vehicle shall not be deemed to "run at large" if secured in a manner as will prevent their escape there from.
- (10) Animals shall not be kept in a manner as to disturb the peace of the neighborhood or of persons passing to and from upon the streets.
- (e) **Suspension, Revocation or Denial of Renewal of License.** The Chief of Police shall have the right to suspend or revoke any license once granted or deny annual renewal thereof when it appears that any license has violated any of the provisions of this Section, or any ordinance of the City, or law, rule or regulation of the State of Wisconsin, involving cruelty or mistreatment of the animal, or the unlawful possession of the animal. Prior to the suspension or revocation of any license or the denial of an application for a renewal thereof, written notice of the reason for such action shall be given to the applicant or licensee by the officer. Such notice shall state that the applicant may pursue an appeal to the Common Council by filing a request within ten (10) days of such notice.

Sec. 7-1-24 Pigeon Keeping.

- (a) **Definitions.** As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates a different meaning is intended:
 - (1) **Pigeon.** A member of the family Columbidae, and shall include "Racing Pigeons", "Fancy Pigeons" and "Sporting Pigeons" as defined in this Section.
 - (2) **Racing Pigeon.** A pigeon which, through selective past breeding, has developed the distinctive physical and mental characteristics as to enable it to return to its home after having been released a considerable distance there from, and which is accepted as such by the American Racing Pigeon Union, Inc, or the International Federation of Racing Pigeon Fanciers. Also commonly known as Racing Homer, Hon-ling Pigeon, or Carrier Pigeon.
 - (3) **Fancy Pigeon.** A pigeon which, through past breeding, has developed certain distinctive physical and performing characteristics as to be clearly identified and accepted as such by the National Pigeon Association, the American Pigeon Club, or the Rare Breeds Pigeon Club. Examples: Fantails, Pouters, Trumpeters.
 - (4) **Sporting Pigeon.** A pigeon which, through selective past breeding, has developed the ability to fly in a distinctive manner, such as aerial acrobatics or endurance flying.
Examples: Rollers, Tippers.
 - (5) **Loft.** The structure for the keeping or housing of pigeons.
 - (6) **Mature Pigeon.** A pigeon aged six (6) months or older.
 - (7) **Owner.** The owner of a pigeon or pigeons.

- (b) **Conditions for Keeping of Pigeons.** The keeping, breeding, maintenance and flying of pigeons shall be permitted, on the following conditions:
- (1) The loft shall be of such sufficient size and design, and constructed of such material, that it can be maintained in a clean and sanitary condition.
 - (2) There shall be at least one (1) square foot of floor space in any loft for each mature pigeon kept therein.
 - (3) The construction and location of the loft shall not conflict with the requirements of any Building Code or Zoning Code of the City.
 - (4) All feed for said pigeons shall be stored in such containers as to protect against intrusion by rodents and other vermin.
 - (5) The loft shall be maintained in a sanitary condition and in compliance with all applicable health regulations of the City.
 - (6) All pigeons shall be confined to the loft, except for limited periods necessary for exercise, training and competition; and at no time shall pigeons be allowed to perch or linger on the buildings of property of others.
 - (7) All pigeons shall be fed within the confines of the loft.
 - (8) No one shall release pigeons to fly for exercise training or competition except in compliance with the following rules:
 - a. The owner of the pigeons must be a member in good standing of an organized pigeon club, such as the American Racing Pigeon Union, Inc., the International Federation of racing Pigeon Fanciers, the National Pigeon Association, the American Tippler Society, the International Roller Association, the Rare Breeds Pigeon Club, or a local club which has rules that will help preserve the peace and tranquility of the neighborhood.
 - b. Pigeons will not be released for flying which have been fed within the previous four (4) hours.
 - (9) No owner may have more than twenty (20) pigeons in a residentially zoned area.
- (c) **Right of Entry for Inspection.** City law enforcement officers may enter and inspect any property or loft at any reasonable time for the purpose of investigating either an actual or suspected violation or to ascertain compliance or noncompliance with this Section.

Sec. 7-1-25 Penalties.

- (a) Any person violating Sections 7-1-14 through 7-1-18 and 7-1-20 through 7-1-24 shall be subject to a forfeiture of not less than Fifty Dollars (\$50.00) and not more than Two Hundred Dollars (\$200.00). This Section shall also permit the City Attorney to apply to the court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating any aspect of this Chapter.
- (b) (1) Anyone who violates Sections 7-1-1, 7-1-2, 7-1-3, 7-1-4 and 7-1-5 of this Code of Ordinances or Chapter 174, Wis. Stats., shall be subject to a forfeiture of not less than Twenty-five Dollars (\$25.00) and not more than Two Hundred Dollars (\$200.00) for the first offense and not less than One Hundred Dollars (\$ 100.00) and not more than Four Hundred Dollars (\$400.00) for any subsequent offenses.
- (2) An owner who refuses to comply with an order issued under Section 7-1-5 to deliver an animal to an officer, isolation facility or veterinarian or who does not comply with the conditions of an order that an animal be quarantined shall be fined

not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00)

- (c) Any person who violates Section 7-1-6 through 7-1-13 of this Code of Ordinances shall be subject to a forfeiture of not less than Twenty-five Dollars (\$25.00) and not more than One Hundred Dollars (\$100.00) for the first violation and not less than Fifty Dollars (\$50.00) and not more than Two Hundred Dollars (\$200.00) for subsequent violations.
- (d) Any person who violates Section 7-1-19 of this Code of Ordinances shall be subject to a forfeiture of Ten Dollars (\$10.00).

Chapter 2

Fermented Malt Beverages and Intoxicating Liquor

Article A Fermented Malt Beverages and Intoxicating Liquor

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Article B Operator's License

- 7-2-30 Operator's License Required
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thereto, except as provided by Sections 125.16, 125.27, 125.28 and 125.51 of the Wisconsin Statutes.

Sec. 7-2-4 Classes of Licenses.

- (a) **Retail "Class A" Intoxicating Liquor License.** A retail "Class A" intoxicating liquor license, when issued by the City Clerk-Treasurer 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. Such license shall be issued with an effective date of July 1st, but may be issued by the City prior to that date. The license shall expire on the following June 30th.
- (b) **Retail "Class B" Intoxicating Liquor License.** A retail "Class B" intoxicating liquor license, when issued by the City Clerk Treasurer under authority of the Common Council, shall permit its holder to sell, deal and traffic in intoxicating liquors to be consumed by the glass only on the premises so licensed and in the original package or container in multiples not to exceed four (4) liters at any one (1) time, to be consumed off the premises, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off the premises. Such license shall be issued with an effective date of July 1st, but may be issued by the City prior to that date. The license shall expire on the following June 30th.
- (c) **Class "A" Fermented Malt Beverage Retailer's License.** A Class "A" retailer's fermented malt beverage license, when issued by the City Clerk-Treasurer under the authority of the Common Council, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only for consumption away from the premises where sold and in the original packages, containers or bottles. Such license shall be issued with an effective date of July 1st, but may be issued by the City prior to that date. The license shall expire on the following June 30th.
- (d) **Class "B" Fermented Malt Beverage Retailer's License.**
 - (1) **License.** A Class "B" fermented malt beverage retailer's license, when issued by the City Clerk-Treasurer 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 per centum of alcohol by volume, without obtaining a special license to sell such beverages. Such license shall be issued with an effective date of July 1st, but may be issued by the City prior to that date. The license shall expire on the following June 30th.
 - (2) **Application.** Class "B" licenses may be issued to any person qualified under Sec. 125.04(5), Wis. Stats. Such licenses may not be issued to any person acting as agent for or in the employ of another except that this restriction does not apply to a hotel or restaurant which is not a part of or located on the premises of any mercantile establishment, or to a bona fide club, society or lodge that has been in existence for at least six (6) months before the date of application. A Class "B" license for a hotel, restaurant, club, society or lodge may be issued in the name of an officer who shall be personally responsible for compliance with this Chapter.

Except as provided in Sec. 125.3 1, Wis. Stats., Class "B " licenses may not be issued to brewers or fermented malt beverages wholesalers.

(e) **Temporary Class "B" Fermented Malt Beverage License.**

- (1) **License.** 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 churches, lodges, that have been in existence for at least six (6) months before the date of application and to posts of veterans organizations authorized the sale of fermented malt beverages at a particular picnic or similar gathering, at a meeting of the post. Such license is valid for dates as approved by the Common Council.
- (2) **Application.** Application for such license shall be signed by the president or corresponding officer of the society or association making such application and shall be filed with the City Clerk-Treasurer together with the appropriate license fee for each event for which the license is sought. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a forfeiture of Two Hundred Dollars (\$200.00) and will be ineligible to apply for a temporary Class "B" license for one (1) year. The license shall specify the hours and dates of license validity. The application shall be filed a minimum of fifteen (15) days prior to the meeting of the Common Council at which the application will be considered for events of more than three (3) consecutive days. If the application is for a license to be used in a City park, the applicant shall specify the main point of sale facility.

(f) **Temporary "Class B" Wine License.**

- (1) **License.** Notwithstanding Sec. 125.68(3), Wis. Stats., temporary "Class B" licenses may be issued to bona fide clubs, to 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. No fee may be charged to a person who, at the same time, applies for a temporary Class "B" beer license under Sec. 125.26(6), Wis. Stats., for the same event.
- (2) **Application.** Application for such license shall be signed by the president or corresponding officer of the society or association making such application and shall be filed with the City Clerk-Treasurer together with the appropriate license fee for each event for which the license is sought. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a forfeiture of Two Hundred Dollars (\$200.00) and will be ineligible to apply for a temporary "Class B" wine license for one (1) year. The license shall specify the hours and dates of license validity. The application shall be filed a minimum of fifteen (15) days prior to the meeting of the Common Council at which the application will be considered for events of more than three (3) consecutive days. If the application is for a license to be used in a City park, the applicant shall specify the main point of sale facility.

- (g) **Wholesaler's License.** A wholesaler's fermented malt beverage license, when issued by the City Clerk Treasurer under the authority of the Council, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only in original

packages or containers to dealers, not to be consumed in or about the premises of said wholesaler.

(h) **Retail "Class C" Licenses.**

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

Cross Reference: Section 7-2-17.

Sec. 7-2-5 License Fees.

There shall be the following classes of licenses which, when issued by the City Clerk-Treasurer under the authority of the Common Council after payment of the license fee and publication costs hereinafter specified shall permit the holder to sell, deal or traffic in intoxicating liquors or fermented malt beverages as provided in Section 7-2-4 of this Code of Ordinances and Chapter 125, Wis. Stats.:

- (a) **Class "A" Fermented Malt Beverages Retailer's License.** The annual fee for this license shall be as prescribed in Section 1-3-1. The fee for a license for less than twelve (12) months shall be prorated according to the number of months or fraction thereof for which the license is issued.
- (b) **Class "B" Fermented Malt Beverage License.** The annual fee for this license shall be as prescribed in Section 1-3-1. This license may be issued at any time for six (6) months in any calendar year, for which fifty percent (50%) of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued. The fee for a license for less than twelve (12) months shall be prorated according to the number of months or fraction thereof for which the license is issued.
- (c) **Temporary Class "B" Fermented Malt Beverage License.** The fee for this license shall be as prescribed in Section 1-3-1 per event.
- (d) **Temporary "Class B" Wine License.** The fee for this license shall be as prescribed in Section 1-3-1 per event. However, there shall be no fee if the Temporary Wine License is obtained along with a Temporary Fermented Malt Beverage License.
- (e) **Fermented Malt Beverage Wholesalers' License.** The annual fee for this license shall be as prescribed in Section 1-3-1.
- (f) **"Class A" Intoxicating Liquor Retailer's License.** The annual fee for this license shall be as prescribed in Section 1-3-1. The fee for a license of less than twelve (12) months shall be prorated according to the number of months of fraction thereof for which the license is issued.

- (g) **"Class B" Intoxicating Liquor Retailer's License.** The annual fee for this license shall be as prescribed in Section 1-3-1. This license may be issued at any time for six (6) months in any calendar year, for which fifty percent (50%) of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued. The fee for a license of less than twelve (12) months shall be prorated according to the number of months of fraction thereof for which the license is issued.
(1) Wisconsin Statutes Section 125.51 (3)(e) 2 mandates that municipalities establish an initial issuance for Reserve "Class B" liquor licenses for not less than \$10,000.00. A reserve "Class B" license is defined as a "license that is not granted or issues by a municipality on December 1, 1997". Fees for this license will be placed in the general obligations for the City of Prescott.
- (h) **"Class C" Wine License.** The annual fee for this license shall be as prescribed in Section 1-3-1. The fee for less than one (1) year shall be pro-rated.

Sec. 7-2-6 Application for License.

- (a) **Contents.** Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on the form prescribed by the Wisconsin Department of Revenue and shall be sworn to by the applicant as provided by Sees. 887.01 to 887.04, Wis. Stats., and shall be filed with the City Clerk-Treasurer not less than fifteen (15) days prior to the granting of such license. The premises shall be physically described to include every room and storage space to be covered by the license, including all rooms not separated by a solid wall or joined by connecting entrances.
- (b) **Corporations.** Such application shall be filed and sworn to by the applicant if an individual, by the president and secretary, of a corporation.
- (c) **Publication.** The City Clerk-Treasurer shall publish each application for a Class "A", Class "B", "Class A", "Class B", or "Class C" license. There is no publication requirement for temporary Class "B" picnic beer licenses under Sec. 125.26, Wis. Stats., or temporary "Class B" picnic wine licenses under Sec. 125.51(10), Wis. Stats. The application shall be published once in the official City newspaper, and the costs of publication shall be paid by the applicant at the time the application is filed, as determined under Sec. 985.08, Wis. Stats.
- (d) **Amending Application.** Whenever anything occurs to change any fact set out in the application of any licensee, such licensee shall file with the issuing authority a notice in writing of such change within ten (10) days after the occurrence thereof.
- (e) **License Quotas.** Retail intoxicating liquor and fermented malt beverage licenses issued by the Common Council shall be limited in number to the quota prescribed by state law.

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

- (a) **Residence Requirements.** A retail Class "A" or Class "B" fermented malt beverage or "Class A" or "Class B" intoxicating liquor license shall be granted only to persons who are citizens of the United States and who have been residents of the State of Wisconsin continuously for at least ninety (90) days prior to the date of the application.
- (b) **Applicant to have Malt Beverage License.** No retail "Class B" intoxicating liquor license shall be issued to any person who does not have or to whom is not issued a Class "B" retailer's license to sell fermented malt beverages.
- (c) **Right to Premises.** No applicant will be considered unless he has the right to possession of the premises described in the application for the license period, by lease or by deed.
- (d) **Age of Applicant.** Licenses related to alcohol beverages shall only be granted to persons who have attained the legal drinking age.
- (e) **Corporate Restrictions.**
 - (1) No license of permit may be issued to any corporation unless the corporation meets the qualifications under Sec. 125.04(a)1 and 4 and (b), Wis. Stats., unless the agent of the corporation appointed under Sec. 125.04(6) and the officers and directors of the corporation meet the qualifications of Sec. 125.04(a)1 and 3 and (b) and unless the agent of the corporation appointed under Sec. 125.04(6) meets the qualification under Sec. 125.04(a)2. The requirement that the corporation meet the qualifications under Sec. 125.04(a)1 and (b) does not apply if the corporation has terminated its relationship with all of the individuals whose actions directly contributed to the conviction.
 - (2) The City may require that each corporate applicant file with its application for such license a statement by its officers showing the names and addresses of the persons who are stockholders together with the amount of stock held by such person or persons. It shall be the duty of each corporate applicant and licensee to file with the City Clerk-Treasurer a statement of transfers of stock within forty-eight (48) hours after such transfer of stock.
 - (3) Any license issued to a corporation may be revoked in the manner and under the procedure established in Sec. 125.12, Wis. Stats., when more than fifty percent (50%) of the stock interest, legal or beneficial, in such corporation is held by any person or persons not eligible for a license under this Chapter or under the state law.
- (f) **Sales Tax Qualification.** All applicants for retail licenses shall provide proof, as required by Sec. 77.61(1), Wis. Stats., that they are in good standing for sales tax purposes (i.e., hold a seller's permit) before they may be issued a license.
- (g) **Connecting Premises.** Except in the case of hotels, no person may hold both a "Class A" license and either a "Class B" license or permit, a Class "B" license or permit, or a "Class C" license for the same premises or for connecting premises. Except for hotels, if either type of license or permit is issued for the same or connecting premises already covered by the other type of license or permit, the license or permit last issued is void. If both licenses or permits are issued simultaneously, both are void.
- (h) **Limitations on Other Business; Class "B" Premises.** No Class "B" license or permit may be granted for any premises where any other business is conducted in connection

with the premises, except that this restriction does not apply if the premises for which the Class "B" license or permit is issued is connected to the premises where other business is conducted by a secondary doorway that serves as a safety exit and is not the primary entrance to the Class "B" premises. No other business may be conducted on premises operating under a Class "B" license or permit. These restrictions do not apply to any of the following:

- (1) A hotel.
- (2) A restaurant, whether or not it is a part of or located in any mercantile establishment.
- (3) A combination grocery store and tavern.
- (4) A combination sporting goods store and tavern in towns, villages, and fourth class cities.
- (5) A combination novelty store and tavern.
- (6) A bowling alley or recreation premises.
- (7) A club, society or lodge that has been in existence for six (6) months or more prior to the date of filing application for the Class "B" license or permit.

Sec. 7-2-8 Investigation.

The City Clerk-Treasurer shall notify the Chief of Police, Fire Inspector and Building Inspector of each new application, and these officials shall inspect or cause to be inspected each application and the premises, together with such other investigation as shall be necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto, including those governing sanitation in restaurants, and whether the applicant is a proper recipient of a license. These officials shall furnish to the City Clerk-Treasurer in writing, who shall forward to the Common Council, the information derived from such investigation, accompanied by a recommendation as to whether a license should be granted or refused. No license shall be renewed without a re-inspection of the premises and report as originally required.

Sec. 7-2-9 Approval of Application.

- (a) No license shall be granted for operation on any premises for which taxes, assessments, forfeitures or other financial claims of the City are delinquent and unpaid.
- (b) No license shall be issued unless the premises conform to the sanitary, safety and health requirements of the State Building Code, and the regulations of the State Board of Health and local Board of Health applicable to restaurants. The premises must be properly lighted and ventilated, must be equipped with separate sanitary toilet and lavatory facilities equipped with running water for each sex and must conform to all Ordinances of the City,
- (c) Consideration for the granting or denial of a license will be based on:
 - (1) Arrest and conviction record of the applicant, subject to the limitations imposed by Sees. 111.321, 111.322, and II 1.335, Wis. Stats.;

- (2) The financial responsibility of the applicant;
 - (3) The appropriateness of the location and the premises where the licensed business is to be conducted; and
 - (4) Generally, the applicant's fitness for the trust to be reposed.
- (d) An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two (2) offenses which are substantially related to the licensed activity within the five (5) years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the Common Council, the Common Council reserves the right to consider the severity, and facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the Council, at its discretion, may, based upon an arrest or conviction record of two (2) or more offenses which are substantially related to the licensed activity within the five (5) years immediately preceding, act to suspend such license for a period of one (1) year or more.

Sec. 7-2-10 Granting of License.

- (a) Opportunity shall be given by the governing body to any person to be heard for or against the granting of any license. Upon the approval of the applicant by the Common Council, the City Clerk-Treasurer shall issue to the applicant a license, upon payment by the applicant of the license fee to the City.
- (b) If the Common Council denies the license, the applicant shall be notified in writing, by certified mail or personal service, of the reasons for the denial. The notice shall also inform the applicant of the opportunity to appear before the Common Council and to provide evidence as to why the denial should be reversed. In addition, the notice shall inform the applicant that the reconsideration of the application shall be held in closed session, pursuant to Sec. 19.85(1)(b), Wis. Stats., unless the applicant requests such reconsideration be held in open session and the Common Council consents to the request. Such written notice shall be mailed or served upon the applicant at least ten (10) days prior to the Common Council meeting at which the application is to be reconsidered.

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

- (a) In accordance with the provisions of Sec. 125.04(12), Wis. Stats., a license shall be transferable from one premises to another if such transfer is first approved by the Common Council. An application for transfer shall be made on a form furnished by the City Clerk Treasurer. Proceedings for such transfer shall be had in the same form and manner as the original application. The fee for such transfer is Ten Dollars (\$10.00). Whenever a license is transferred, the City Clerk-Treasurer shall forthwith notify the Wisconsin Department of Revenue of such transfer. In the event of the sale of a business or business premises of the licensee, the purchaser of such business or business premises

must apply to the City for re-issuance of said license and the City, as the licensing authority, shall in no way be bound to reissue said license to said subsequent purchaser.

- (b) Whenever the agent of a corporate holder of a license is for any reason replaced, the licensee shall give the City Clerk-Treasurer written notice of said replacement, the reasons therefore and the new appointment. Until the next regular meeting or special meeting of the Common Council, the successor agent shall have the authority to perform the functions and be charged with the duties of the original agent. However, said license shall cease to be in effect upon receipt by the City Clerk-Treasurer of notice of disapproval of the successor agent by the Wisconsin Department of Revenue or other peace officer of the municipality in which the license was issued. The corporation's license shall not be in force after receipt of such notice or after a regular or special meeting of the Common Council until the successor agent or another qualified agent is appointed and approved by the City.

Sec. 7-2-12 Numbering of License.

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

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

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

Sec. 7-2-14 Conditions of License.

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

- (a) **Consent to Entry.** Every applicant procuring a license thereby consents to the entry of police or other duly authorized representatives of the City at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all things and articles there had in violation of City ordinances or state laws, and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.
- (b) **Employment of Minors.** No retail "Class B" or Class "B" licenses shall employ any underage person, as defined in the Wisconsin Statutes, but this shall not apply to hotels

and restaurants. Family members may work on the licensed premises but are not permitted to sell or dispense alcoholic beverages.

- (c) **Disorderly Conduct Prohibited.** Each licensed premises shall, at all times, be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.
- (d) **Licensed Operator on Premises.** There shall be upon premises operated under a "Class B", Class "B", or "Class C" license, at all times, the licensee, members of the licensee's immediate family who have attained the legal drinking age, and/or some person who shall have an operator's license and who shall be responsible for the acts of all persons serving as waiters, or in any other manner, any fermented malt beverages to customers. No person other than the licensee shall serve fermented malt beverages in any place operated under a "Class B", Class "B", or "Class C" license unless he possesses an operator's license, or there is a person with an operator's license upon said premises at the time of such service.
- (e) **Health and Sanitation Regulations.** The rules and regulations of the State Board of Health governing sanitation in restaurants shall apply to all "Class B" liquor licenses issued under this Chapter. No "Class B" or "Class C" license shall be issued unless the premises to be licensed conform to such rules and regulations.
- (f) **Restrictions Near Schools and Churches.** No retail Class "A", Class "B", "Class A" or "Class B" license shall be issued for premises, the main entrance of which is less than three hundred (300) feet from the main entrance of any established public school, parochial school, hospital or church. Such distance shall be measured by the shortest route along the highway from the closest point of the main entrance of such school, church or hospital to the main entrance to such premises. This Subsection shall not apply to premises licensed as such on June 30, 1947, nor shall it apply to any premises licensed as such prior to the occupation of real property within three hundred (300) feet thereof by any school building, hospital building or church building. However, Sec. 125.68(3)(c), Wis. Stats., exempts a restaurant within three hundred (300) feet of a church where the sale of alcoholic beverages is less than fifty percent (50%) of the gross receipts.
- (g) **Clubs.** No club shall give away any intoxicating liquors.
- (h) **Gambling Prohibited.** Except as authorized by state law, no gambling or game of chance of any sort shall be permitted in any form upon any premises licensed under this Chapter or the laws of the State of Wisconsin.
- (i) **Credit Prohibited.** No retail Class "A", Class "B", "Class A", "Class B", or "Class C", liquor, wine, or fermented malt beverage licensee shall sell or offer for sale any alcohol beverage to any person or persons by extending credit, except hotel credit extended to a resident guest or a club to a bona fide member. It shall be unlawful for such licensee or permittee to sell alcohol beverages to any person on a passbook or store order or to receive from any person any goods, ware, merchandise or other articles in exchange for alcohol beverages.
- (j) **Licensee or Permittee Responsible for Acts of Help.** A violation of this Chapter by a duly authorized agent or employee of a licensee or permittee under this Chapter shall constitute a violation by the licensee or permittee. Whenever any licensee or permittee under this Chapter shall violate any portion of this Chapter, proceedings for the suspension or revocation of the license of permit of the holder thereof may be instituted in the manner prescribed in this Chapter.

- (1) **Purpose.**
 - a. The Wisconsin Statutes authorizes local municipalities to prescribe regulations for the sale of alcohol beverages which are not in conflict with state statutes; and,
 - b. The City of Prescott Common Council upon due consideration finds that nudity and near nudity and sexual conduct are proper subjects for regulation in connection with the control of the sale of alcoholic beverages within the City; and,
 - c. The Common Council further finds that any form of nudity coupled with alcohol consumption in a public place begets undesirable behavior and that there is a relationship between the consumption of alcoholic beverages and nudity and an increase of criminal activities, moral degradation and the disturbances of the peace and the good order of the community. Concurrence of nudity and alcoholic beverages are hazardous to the health and the safety of those in attendance and tends to depreciate the value of adjoining property and to harm the economic welfare of the community as a whole. When there is concurrence of nudity and consumption of alcoholic beverages, other activities that are illegal, immoral or unhealthy tend to accompany them, concentrate around them, and be aggravated by them. Such other activities include but are not limited to prostitution, solicitation for prostitution, lewd and lascivious behavior, possession, distribution and transportation of obscene materials, sale or possession of controlled substances and violent crimes against persons and property; and,
 - d. The Common Council has determined that the enactment of an ordinance prohibiting nudity and sexual conduct in establishments licensed to sell alcoholic beverages within the City of Prescott will prevent or limit such undesirable conduct and activities.
- (2) **Improper Exhibitions.** It shall be unlawful for any person to perform, or for any licensee or manager or agent of the licensee to permit any employee, entertainer or patron to engage in any live act, demonstration, dance or exhibition on the licensed premises which:
 - a. Exposes his or her genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or
 - b. Exposes any device, costume or covering which gives the appearance of or simulates genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or
 - c. Exposes any portion of the female breast at or below the areola thereof; or
 - d. Engages or simulates sexual intercourse and/or any sexual contact, including the touching of any portion of the female breast or the male and/or female genitals.
 - c. Shows, films or slides depicting any of the acts which are prohibited by the regulation stated in this Subsection.

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

Sec. 7-2-15 Closing Hours.

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

- (a) **Class "B" Licenses.**
 - (1) No premises for which a retail "Class B" liquor, Class "B" fermented malt beverage, or "Class C" wine license has been issued shall be permitted to remain open for the sale of liquor or fermented malt beverages or for any other purpose between the hours of 2:00 a.m. and 6:00 a.m., Monday through Friday, and 2:30 a.m. and 6:00 a.m., Saturday and Sunday. There shall be no closing hours on January 1st.
 - (2) Hotels and restaurants, the principal business of which is the furnishing of food or lodging to patrons, bowling alleys, indoor horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business but shall not sell liquor or malt beverages during the closing hours of Subsection (a)(1) above.
- (b) **Carryout Hours.** Between 9:00 p.m. and 8:00 a.m., no person may sell, remove, carry out or permit to be removed or carried out from any premises having a "Class A" or Class "A", "~~Class B" or Class "B"~~ license, fermented malt beverages or intoxicating liquor in original unopened packages, containers or bottles for consumption away from the premises. Between midnight and 8:00 a.m., no person may sell, remove, carry out or permit to be removed or carried out from any premises having a "Class B" or Class "B" license, fermented malt beverages or intoxicating liquor in original unopened packages, containers or bottles for consumption away from the premises.
- (c) **Exclusions.** All persons, except the licensee and his or her bonafide employees specifically involved in maintenance and cleanup, shall be excluded from the licensed premises during the closing hours in Subsections (a) and (b) above and all doors into such areas shall be closed and locked.

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

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

- (a) **Compliance with Eligibility Standards.** The organization shall meet the eligibility requirements of a bona fide club, association, lodge or society as set forth in Sec. 125.26(6), Wis. Stats., and shall fully comply with the requirements of this Section and

Section 11-4-1. Members of an organization which is issued a temporary license and who are issued operator's licenses for the event shall attend a pre-event informational meeting to learn what rules and regulations apply and what the responsibilities of the bartenders and organization will be.

- (b) **Posting of Signs and Licenses.** All organizations issued a temporary license shall post in a conspicuous location at the main point of sale and at all remote points of sale a sufficient number of signs stating that no fermented malt beverage shall be served to any under-age person without proper identification.
- (c) **Fencing.** If necessary due to the physical characteristics of the site, the 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 Prescott. The applicant may be required to furnish a performance bond prior to being granted the license.

Cross Reference: Section 11-4-1.

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

- (a) **Procedure.** Whenever the holder of any license under this Chapter violates any portion of this Chapter or Title I 1, Chapter 4, of this Code of Ordinances, proceedings for the revocation of such license may be instituted in the manner and under the procedure established by this Section.
- (b) **Abandonment of Premises.** Any licensee holding a license to sell alcohol beverages who abandons such business shall forfeit any right or preference he may have to the holding of or renewal of such license. Abandonment shall be sufficient grounds for revocation of any alcohol beverage license. The losing of the licensed premises for at least six (6) months shall be prima facie evidence of the abandonment, unless extended

by the Common Council. All persons issued a license to sell alcohol beverages in the City for which a quota exists limiting the number of such licenses that may be issued by the City shall cause such business described in such license to be operated on the premises described in such license for at least one hundred fifty (150) days during the terms of such license, unless such license is issued for a term of less than one hundred eighty (180) days, in which event this Subsection shall not apply.

- (c) **License Revocation or Suspension.** License revocation or suspension procedures shall be as prescribed by Chapter 125, Wis. Stats.

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

The presence of underage persons on a licensed premises as provided under Sec. 125.07(3)(a) 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 4:30 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. 7-2-19 through Sec. 7-2-29

Reserved for Future Use.

Article B: Operator's License

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

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

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

Sec. 7-2-31 Procedure Upon Application.

- (a) The Common Council may issue an operator's license, which license shall be granted only upon application in writing on forms to be obtained from the City Clerk-Treasurer only to persons eighteen (18) years of age or older. Operator's licenses shall be operative only within the limits of the City.

- (b) All applications are subject to an investigation by the Chief of Police and/or other appropriate authority to determine whether the applicant to be licensed complies with all regulations, ordinances and laws applicable thereto. The Police Department shall conduct an investigation of the applicant including, but not limited to, requesting information from the State, surrounding municipalities, and/or any community where the applicant has previously resided concerning the applicant's arrest and conviction record. Based upon such investigation, the Chief of Police shall recommend, in writing, to the Common Council approval or denial of the application, If the Chief of Police recommends denial, the Chief of Police shall provide, in writing, the reasons for such recommendation.

Sec. 7-2-32 Duration.

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

Sec. 7-2-33 Operator's License Fee; Provisional or Temporary Licenses.

- (a) **Fee.** The fee for a standard or provisional operator's license shall be as prescribed in Section 1-3-1.
- (b) **Provisional License.** The City Clerk-Treasurer may issue provisional operator's licenses in accordance with Sec. 125.17(5), Wis. Stats. The provisional operator's license shall expire sixty (60) days after its issuance or when an operator's license is issued to the holder, whichever is sooner. The City Clerk-Treasurer may, upon receiving an application for a temporary provisional license, issue such a license without requiring the successful completion of the approved program as described herein. However, such temporary license shall be used only for the purpose of allowing such applicant the privilege of being licensed as a beverage operator pending his successful completion of the approved program. A provisional license may not be issued to any person who has been denied an operator's license by the Common Council or who has had his/her operator's license revoked or suspended within the preceding twelve (12) months. The City Clerk-Treasurer shall provide an appropriate application form to be completed in full by the applicant. The City Clerk Treasurer may revoke the provisional license issued if he/she discovers that the holder of the license made a false statement on the application. Following completion of the Bartender Awareness Course and notification from the school, the license application will be presented to the Council, with the appropriate fee as prescribed in Subsection (a) above for a one (1) or two (2) year operators license. If approved by the Council, the operator's license is issued.
- (c) **Temporary License.** The City Clerk-Treasurer may issue a temporary operator's license, at no fee, provided that:
- (1) This license may be issued only to operators employed by, or donating their services to, nonprofit corporations.

- (2) No person may hold more than one (1) license of this kind per year.
- (3) The license is valid for any period from one (1) day to fourteen (14) days, and the period for which it is valid shall be stated on the license.

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

- (a) After the Common Council approves the granting of an operator's license, the City Clerk Treasurer shall issue the license. Such licenses shall be issued and numbered in the order they are granted and shall give the applicant's name and address and the date of the expiration of such license.
- (b) (1) If the application is denied by the Common Council, the City Clerk-Treasurer shall, in writing, inform the applicant of the denial, the reasons therefore, and of the opportunity to request a reconsideration of the application by the Common Council in a closed session. Such notice must be sent by registered mail to, or served upon, the applicant at least ten (10) days prior to the Council's reconsideration of the matter. At such reconsideration hearing, the applicant may present evidence and testimony as to why the license should be granted.
 - (2) If, upon reconsideration, the Council again denies the application, the City Clerk Treasurer shall notify the applicant in writing of the reasons therefore. An applicant who is denied any license upon reconsideration of the matter, may apply to Circuit Court pursuant to Sec. 125.12(2)(d), Wis. Stats., for review.
- (c) (1) Consideration for the granting or denial of a license will be based on:
 - a. Arrest and conviction record of the applicant, subject to the limitations imposed by Sec. 111.321, 111.322, and 111.335, Wis. Stats.;
 - b. The financial responsibility of the applicant; and
 - c. Generally, the applicant's fitness for the trust to be reposed.(2) If a licensee is convicted of an offense substantially related to the licensed activity, the Common Council may act to revoke or suspend the license.
- (d) An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two (2) offenses which are substantially related to the licensed activity within the five (5) years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the 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 Common Council, at its discretion, may, based upon an arrest or conviction record of two (2) or more offenses which are substantially related to the licensed activity within the five (5) years immediately preceding, act to suspend such license for a period of one (1) year or more.

Sec. 7-2-35 Training Course.

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

Sec. 7-2-36 Display of License.

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

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

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

Sec. 7-2-83 through Sec. 7-2-39 Reserved for Future Use.

Article C: Penalties

Sec. 7-2-40 Penalties.

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

Chapter 3

Cigarette License; Soda Water Beverage License

- 7-3-1 Cigarette License
- 7-3-2 Soda Water Beverage License

Sec. 7-3-1 Cigarette License.

- (a) **License Required.** No person, firm or corporation shall, in any manner, directly or indirectly, upon any premises, or by any device, sell, exchange, barter, dispose of or give away, or keep for sale, any cigarette, cigarette paper or cigarette wrappers, or any substitute therefore, without first obtaining a license as hereinafter provided.
- (b) **Application for License; Fee.** Every person, firm or corporation desiring a license under this Section shall file with the City Clerk-Treasurer a written application therefore, stating the name of the person and the place for which such license is desired. Each license shall be filed by the City Clerk-Treasurer and shall name the licensee and the place wherein he/she is authorized to conduct such business, and the same shall not be delivered until the applicant shall pay to the City Clerk-Treasurer a license fee of as prescribed in Section
- (c) **Issuance and Term of License.** Licenses for the sale, exchange, barter, disposition of, or giving away or keeping for sale of cigarette paper or cigarette wrappers or any substitute therefore shall be issued by the City Clerk-Treasurer. Each license shall be issued with an effective date of July 1st (but may be issued by the City prior to that date), or thereafter whenever applied for, and shall continue in force from date of issuance until the succeeding June 30th unless sooner revoked for any violation of this Section.
- (d) No retailer, manufacturer, distributor, jobber or sub jobber, no agent, employee or independent contractor of a retailer, manufacturer, distributor, jobber or sub jobber and no agent or employee of an independent contractor may sell or provide for nominal or no consideration of cigarette or tobacco products to any person under the age of 18. A vending machine operator is not liable under this paragraph for the purchase of cigarettes or tobacco products for his or her vending machine by a person under the age of 18 if the vending machine operator was unaware of the purchase.

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

Sec. 7-3-2 Soda Water Beverage License.

- (a) **Application.** Application for a soda water beverage license shall be made in writing to the Clerk-Treasurer. The application shall designate the specific premises for which the license is sought and shall be referred by the Clerk-Treasurer to the Common Council.
- (b) **Fees.** The license fee for a soda water beverage license shall be as prescribed in Section 1-3-1.
- (c) **Expiration.** The license issued under the provisions of this Section shall expire on the thirtieth (30th) day of June following the date of issuance.
- (d) **Removal of Business.** In case of the removal within the license period to another location within the City, the licensee shall give notice of such change of location, and the license shall be amended accordingly without payment of an additional fee. No such license, however, shall be transferable from one person to another.

Chapter 4

Transient Merchants

7-4-1	Registration Required
7-4-2	Definitions
7-4-3	Exemptions
7-4-4	Registration
7-4-5	Investigation
7-4-6	Appeal
7-4-7	Regulation of Transient Merchants; Sales from Private Property; Farm Produce Sales
7-4-8	Failure to Register
7-4-9	Records
7-4-10	Revocation of Registration

Sec. 7-4-1 Registration Required.

It shall be unlawful for any transient merchant, direct seller or charitable solicitor to engage in direct sales or solicitation activities within the City of Prescott without being registered for that purpose as provided herein.

Sec. 7-4-2 Definitions.

In this Chapter:

- (a) **Transient Merchant.** Any individual who engages in the retail sale of merchandise at any place in this state temporarily, and who does not intend to become a permanent merchant of such place.
- (b) **Direct Seller.** Any individual who engages in the soliciting of services at any place in this city temporarily, and who does not intent to become a permanent merchant of such place.
- (c) **Charitable Solicitor.** Any organization having tax status as a not for profit organization. Any person engaged in direct solicitation who:

- (1) Seeks donations of money or other contribution of items of value for an organization or cause; or
- (2) Sells items on behalf of an organization or cause but asks for contribution of greater value than the item being sold.
- (d) **Produce Vendor.** Any individual selling agricultural products.
- (e) **Permanent Merchant.** Any person who has registered as a permanent business at a fixed address.
- (f) **Merchandise.** Any goods or services offered for sale.
- (g) **Person.** All humans of any age or sex, partnerships, corporations, associations, groups, organizations and any other description of a collection of human beings working in concert or for the same purpose or objective.

Sec. 7-4-3 Exemptions.

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

- (a) **Regular Delivery Routes.** Any person delivering newspapers or fuel to regular customers on established routes;
- (b) **Wholesalers.** Any person selling merchandise at wholesale to dealers in such merchandise;
- (c) **Deliveries by Permanent Merchants.** Any permanent merchant or employee thereof who takes orders at the home of the buyer for merchandise regularly offered for sale by such merchant within this county and who delivers such merchandise in their regular course of business;
- (d) **Requested Home Visits.** Any person who has an established place of business where the merchandise being sold are offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested, a home visit by, said person;
- (e) **Prior Sales Transactions.** Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer;
- (f) **Auctions; Sales Authorized by Statute.** Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law;
- (g) **Charitable Organizations; Limited Exemption.** Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization shall be exempt from fees imposed by this Chapter, provided that there is submitted to the City Administrator proof that such charitable organization is registered under Sec. 440.41, Wis. Stats., and the charitable solicitors register with the City under this Chapter. Any charitable organization engaging in the sale of merchandise and not registered under Sec. 440.41, Wis. Stats., or which is exempt from that statute's registration requirements, shall be required to register under this Chapter.
- (h) **Alleged Transient Merchants.** Any person who claims to be a permanent merchant, but against whom complaint has been made to the City Administrator that such person is a transient merchant.
- (i) **Persons Licensed by Examining Boards.** Any individual licensed by an examining board as defined in Sec. 15.01(7), Wis. Stats.

- (j) **City Authorized Events.** Transient merchants, direct sellers, charitable solicitors and produce vendors are required to follow the guidelines of the special events organizers as authorized by the City Council.
- (k) **Resident Minors.** Minors under the age of eighteen (18) who are residents of the Prescott Area School District.
- (l) **Repair Service.** Any repair service including contractors; mechanical, electrical and plumbing repair roofing companies etc. contracted by the occupant or the premises to provide a service. This does not include contractor of any of the services previously mentioned who solicit business on a door-to-door basis.
- (m) **Parcel Delivery Service.** Any delivery service such as UPS, RPS (these are examples but not limited to such examples)

Sec. 7-4-4 Registration.

- (a) **Registration Information.** Applicants for registration must complete and return to the City Administrator a registration form furnished by the Administrator which shall require the following information:
 - (1) Name, permanent address and telephone number, and temporary address, if any;
 - (2) Height, weight, color of hair and eyes, and date of birth;
 - (3) Name, address and telephone number of the person, firm, association or corporation that the transient merchant represents or is employed by, or whose merchandise is being sold;
 - (4) Temporary address and telephone number from which business will be conducted, if any;
 - (5) Nature of business to be conducted and a brief description of the merchandise offered and any services offered;
 - (6) Proposed method of delivery of merchandise, if applicable;
 - (7) Make, model and license number of any vehicle to be used by applicant in the conduct of his business;
 - (8) Last cities, villages, towns, not to exceed three (3), where applicant conducted similar business just prior to making this registration.
 - (9) Place where applicant can be contacted for at least seven (7) days after leaving this City;
 - (10) Statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's transient merchant business within the last five (5) years, the nature of the offence and the place of conviction.
- (b) **Identification and Certification.** Applicants shall present to the City Administrator for examination:
 - (1) A driver's license or some other governmental picture identification, social security number as may be reasonably required;
 - (2) A state certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighing and measuring devices approved by state authorities;
 - (3) A county health officer's certificate where applicant's business involves the handling of food is required within 30 days of application with the City.

(c) **Registration Fee.**

- (1) At the time of filing applications, a fee as prescribed in Section 1-3-1 shall be paid to the City Administrator to cover the cost of investigation of the facts stated in the applications and for processing said registration. Every member of a group must file a separate registration form. The primary applicant shall pay the registration fee plus a CIB investigation fee; each assistant under the application shall also be required to pay the CIB fee.
- (2) Upon payment of the fee and the signing of said statement, the City Administrator shall register the applicant as a transient merchant and date the entry. Said registration shall be valid for a period of 1 year from the date of entry, subject to subsequent to refusal as provided in Sec. 7-4-5 (b) below.
- (3) Solicitor funds and donations for charitable organizations shall comply with all disclosure and registration above, but shall be exempt from the registration fee; such applicants however, shall each pay the CIB fee.
- (4) The City will issue a license, which must be displayed at all times.

Sec. 7-4-5 Investigation.

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

Sec. 7-4-6 Appeal.

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

Sec. 7-4-7 Regulation of Transient Merchants; Sales from Private Property; Farm Produce Sales.

(a) Prohibited Practices.

- (1) ***Sales Prohibited.*** A transient merchant shall be prohibited from calling at any dwelling or other place on Sundays or holidays or between the hours of 9:00 p.m. and 9:00 a.m. except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning; calling at the rear door of any dwelling place; or remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.
- (2) ***Misrepresentation.*** 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 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) ***Use of Public Property, Sales From Private Property.*** No transient merchant shall use sidewalks and streets by pedestrians and vehicles. Without express approval from the Common Council, sales activities shall not be conducted from a public right-of-way or public parking lot. Sale of items from private property shall only be as permitted by the City Zoning Code. Other than for occasional garage sales, any person engaged in temporary sales activity from private property shall be required to first register as required by Sections 7-4-4 and 7-4-5; included in, but not limited to, such regulated activities are sales of Christmas trees, food products, fireworks, art works and sports paraphernalia.
- (4) ***Noise.*** 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) ***Refuse.*** No transient merchant shall allow rubbish or litter to accumulate in or around the area in which he is conducting business.

(b) Disclosure Requirements.

- (1) After the initial greeting and before any other statement is made to a prospective customer, a 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 sales order for the later delivery of merchandise is taken by the seller, the buyer shall have the right to cancel said transaction if it involves the extension of credit or is a cash transaction of more than Twenty-five Dollars (\$25.00), in accordance with the procedure as set forth in Sec. 423.203, Wis. Stats.; the seller shall give the buyer two (2) copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of Sections 423.203(1)(a)(b) and (c), (2) and (3), Wis. Stats.

- (3) If the transient merchant takes a sales order for the later delivery of merchandise, he 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) **Farm Produce Sold on Public Property.**

- (1) ***Sales on City Streets, Alleys, Sidewalks and Property.*** No person may display, market or sell farm or garden produce, on City streets, alleys, sidewalks or public property within the City except as allowed under provision of this Subsection.

- (2) ***Definitions.*** As used in this Subsection, the following words and phrases shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

"Farm or garden produce" is defined as fruits, plants, vegetables, flowers, shrubs or trees intended for planting.

- (3) ***Application for License.*** A license to display, market or sell farm or garden produce on City streets, alleys, sidewalks or public property may be granted by the Zoning Administrator upon proper application being made.

- a. Produce license to sell on public property may be granted by the City upon receipt of application and approval of the City Council.

The application shall contain the following information:

1. The applicant's name and address.
2. The exact time and place of the sale.
3. Whether the applicant will be present and in continuous attendance at the proposed sale.
4. Whether the applicant has within two (2) years prior to the application conducted or had any connection with a similar sale in the City or any other place in the County and if so, to give dates and places of such other sales.
5. Products being sold.

- b. The Council shall designate the place where said display or sale may be conducted when granting any license under this Subsection.

- c. Such license shall be granted to exhibitors in connection with a special civic function and are required to follow the guidelines of the special event organizers as authorized by the City Council.

- d. The term of the license shall commence no earlier than the commencement of the event and extent no later than the last day of the event.

- e. License Fee as per Section 1-3-1.

- (4) **Garage Sales and Estate Sales.** Sales shall be limited to no more than four (4) per year and each shall comprise of no more than three (3) days.

Sec. 7-4-8 Failure to Register.

Failure to register after being notified of need for a license will result in a fine being imposed.

Sec. 7-4-9 Records.

The Police Department shall report to the City Administrator all convictions for violations of this Chapter and the City Administrator shall note any such violation on the record of the registrant convicted.

Sec. 7-4-10 Revocation of Registration.

- (a) Registration may be revoked by a City law enforcement officer or City Administrator if the registrant made any material emission or materially inaccurate statement in the application for registration, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales, violated any provision of this Chapter or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling.
- (b) Provided a written request is filed with the City Administrator within ten (10) days of such revocation, an appeals hearing shall be held before the Common Council or committee thereof. Written notice of the hearing shall be served personally or pursuant to Section 7-44(c) on the registrant at least seventy-two (72) hours prior to the time set for the hearing; such notice contain the time and place of hearing and a statement of the acts upon which the hearing will be based.

Chapter 5

Mobile Homes

7-5-1 Monthly Parking Fee; Limitations on Parking

Sec. 7-5-1 Monthly Parking Fee; Limitations on Parking.

- (a) There is hereby imposed on each owner of a nonexempt, occupied mobile home in the City of Prescott a monthly parking fee as determined in accordance with Section 66.058(3) of the Wisconsin Statutes which is hereby adopted by reference and made part of this Chapter as if fully set forth herein. It shall be the full and complete responsibility of the licensee to collect the proper amount from each mobile homeowner. Licensees shall pay to the City Clerk-Treasurer such parking permit fees on or before the 10th day of the month following the month for which such fees are due in accordance with the terms of this Chapter and such regulations as the City Clerk-Treasurer may reasonably promulgate.
- (1) Licensees of mobile home parks and owners of land on which are parked any occupied, nonexempt mobile homes shall furnish information to the City Clerk Treasurer and Assessor on such homes added to their park or land within five (5) days after arrival of such home on forms furnished by the City Clerk-Treasurer in accordance with Sec. 66.058(3)(c) and (e) of the Wisconsin Statutes.
 - (2) Occupants or owners of non-exempt mobile homes parked outside of a mobile home park shall remit such fees directly to the City Clerk-Treasurer as provided in Subsection (a). It shall be the full and complete responsibility of the licensee of a mobile home park to collect such fees from each occupied nonexempt mobile home therein and to remit such fees to the City Clerk-Treasurer as provided in Subsection (a).
- (b) Owners of nonexempt, occupied mobile homes, upon receipt of notice from the City Clerk Treasurer of their liability for the monthly parking permit fee, shall remit to the City Clerk Treasurer a cash deposit as prescribed by Section 1-3-1 to guarantee payment of such fees when due to the City. It shall be the full and complete responsibility of the licensees of a mobile home park to collect such cash deposits from each occupied, nonexempt mobile home therein and to remit such deposits to the City Clerk-Treasurer. Upon receipt of a notice from the owner or licensee that the nonexempt, occupied mobile home has been or is about to be removed from the City, the City Clerk-Treasurer shall apply said cash deposit to reduce any monthly parking permit fees for which said owner is liable and refund the balance, if any, to said owner.

- (c) It shall be unlawful for any person to park a mobile home outside a mobile home park in the City of Prescott.

State Law Reference: Sec. 66.058, Wis. Stats.

Chapter 6

Regulation and Licensing of Fireworks

7-6-1 Regulation of Fireworks

Sec. 7-6-1 Regulation of Fireworks.

- (a) **Definition.** In this Section, "fireworks" means anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use, but does not include any of the following:
- (1) Fuel or a lubricant.
 - (2) A firearm cartridge or shotgun shell.
 - (3) A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.
 - (4) A match, cigarette lighter, stove, furnace, candle, lantern or space heater.
 - (5) A cap containing not more than one-quarter (1/4) grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.
 - (6) A toy snake which contains no mercury.
 - (7) A model rocket engine.
 - (8) Tobacco and a tobacco product.
 - (9) A sparkler on a wire or wood stick not exceeding thirty-six (36) inches in length or 0.25 inch in outside diameter which does not contain magnesium, chlorate or Perchlorate.
 - (10) A device designed to spray out paper confetti or streamers and which contains less than one-quarter (1/4) grain of explosive mixture.
 - (11) A device designed to produce an audible sound but not explode, spark, move or emit an external flame after ignition and which does not exceed three (3) grams in total weight.
 - (12) A device that emits smoke with no external flame and does not leave the ground.
 - (13) A cylindrical fountain not exceeding one hundred (100) grams in total weight with an inside tube diameter not exceeding 0.75 inch, designed to sit on the ground and emit only sparks and smoke.

- (14) A cone fountain not exceeding seventy-five (75) grams in total weight, designed to sit on the ground and emit only sparks and smoke.
- (b) **Sale.** No person may sell or possess with intent to sell fireworks, except:
 - (1) To a person holding a permit under Subsection (c)(3);
 - (2) To a municipality; or
 - (3) For a purpose specified under Subsection (c)(2)b-f.
- (c) **Use.**
 - (1) **Permit Required.** No person may possess or use fireworks without a user's permit from the Mayor or from an official or employee of the City as designated by the Common Council. No person may use fireworks or a device listed under Subsection (a)(5)-(7) and (9)-(14) while attending a fireworks display for which a permit has been issued to a person listed under Subparagraph (c)(3)a-e or under Subparagraph (c)(3)f if the display is open to the general public.
 - (2) **Permit Exceptions.** Subparagraph (c)(1) above does not apply to:
 - a. The City, except that City fire and law enforcement officials shall be notified of the proposed use of fireworks at least two (2) days in advance.
 - b. The possession or use of explosives in accordance with rules or general orders of the Wisconsin Department of Industry, Labor and Human Relations.
 - c. The disposal of hazardous substances in accordance with rules adopted by the Wisconsin Department of Natural Resources.
 - d. The possession or use of explosive or combustible materials in any manufacturing process.
 - e. The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.
 - f. A possessor or manufacturer of explosives in possession of a license or permit under 18 U.S.C. 841 to 848 if the possession of the fireworks is authorized under the license or permit.
 - (3) **Who May Obtain Permit.** A permit under this Subsection may be issued only to the following:
 - a. A public authority.
 - b. A fair association.
 - c. An amusement park.
 - d. A park board.
 - e. A civic organization,
 - (4) **Bond.** The Mayor issuing a permit under this Subsection shall require an indemnity bond with good and sufficient sureties or policy of liability insurance for the payment of all claims that may arise by reason of injuries to person or property from the handling, use or discharge of fireworks under the permit. The bond or policy shall be taken in the name of the City, and any person injured thereby may bring an action on the bond or policy in the person's own name to recover the damage the person has sustained, but the aggregate liability of the surety or insurer to all persons shall not exceed the amount of the bond or policy. The bond or policy, together with a copy of the permit, shall be filed in the office of the City Clerk-Treasurer.
 - (5) **Required Information for Permit.** A permit under this Subsection shall specify all of the following:

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

State Law Reference: Sec. 167.10, Wis. Stats.

Chapter 7

Street Use Permits

7-7-1 Street Use Permits

Sec. 7-7-1 Street Use Permits.

- (a) **Purpose.** The streets in possession of the City are primarily for the use of the public in the ordinary way. However, under proper circumstances, the Chief of Police and Director of Public Works may grant a permit for street use, subject to reasonable municipal regulation and control. However, the Common Council shall grant permits if the event involves the consumption of alcoholic beverages. Therefore, this Chapter is enacted to regulate and control the use of streets pursuant to a Street Use Permit to the end that the health, safety and general welfare of the public and the good order of the City can be protected and maintained.
- (b) **Application.** A written application for a Street Use Permit by persons or groups desiring the same shall be made on a form provided by the City Clerk-Treasurer and shall be filed with the City Clerk-Treasurer. The application shall set forth the following information regarding the proposed street use:
 - (1) The name, address and telephone number of the applicant or applicants.
 - (2) If the proposed street use is to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorizing responsible heads of such organization.
 - (3) The name, address and telephone number of the person or persons who will be responsible for conducting the proposed use of the street.
 - (4) The date and duration of time for which the requested use of the street is proposed to occur.
 - (5) An accurate description of that portion of the street proposed to be used.
 - (6) The approximate number of persons for whom use of the proposed street area is requested.
 - (7) The proposed use, described in detail, for which the Street Use Permit is requested.
- (c) **Representative at Meeting.** The person or representative of the group making application for a Street Use Permit shall be present when the Chief of Police and Director of Public Works gives consideration to the granting of said Street Use Permit to provide

any additional information which is reasonably necessary to make a fair determination as to whether a permit should be granted. These officials shall consider the affect that the temporary closing of the street will have on the public safety and traffic movement in the area during the time the street may be closed.

- (d) **Mandatory Denial of Street Use Permit.** An application for a Street Use Permit shall be denied if
 - (1) Unless for an auction, the proposed street use is primarily for private or commercial economic gain.
 - (2) The proposed street use would violate any federal or state law or any Ordinance of the City.
 - (3) The proposed street use will substantially hinder the movement of police, fire or emergency vehicles, constituting a risk to persons or property.
 - (4) The application for a Street Use Permit does not contain the information required above.
 - (5) The application requests a period for the use of the street in excess of twelve (12) hours.
 - (6) The proposed use could equally be held in a public park or other location. In addition to the requirement that the application for a Street Use Permit shall be denied, as hereinabove set forth, the officials may deny a permit for any other reason or reasons if it concludes that the health, safety and general welfare of the public cannot adequately be protected and maintained if the permit is granted.
- (e) **Permit Fee.** Each application for a Street Use Permit shall be accompanied by a fee as prescribed in Section 1-3-1.
- (f) **Consent to Issuance of Street Use Permit.** In addition to the fee required by the previous Subsection, each application for a Street Use Permit, except for parades or races sponsored by civic, youth or scout organizations which have been in existence for at least six (6) months, shall be accompanied by a petition designating the proposed area of the street to be used and time for said proposed use, said petition to be signed by not less than seventy-five percent (75%) of the residents over eighteen (18) years of age residing along that portion of the street designated for the proposed use. Said petition shall be verified and shall be submitted in substantially the following form:

PETITION FOR STREET USE PERMIT

We, the undersigned residents of the _____ hundred block of _____ Street in the City of Prescott, hereby consent to the _____ recreational or business use of this street between the hours of _____ and _____ on the ____ day of _____, 20__ for the purpose of _____ and do hereby consent to the City of Prescott to grant a Street Use Permit for use of the said portion of said street for said purpose and do hereby agree to abide by such conditions of such use as the City of Prescott shall attach to the granting of the requested Street Use Permit. We further understand that the permit will not be granted for longer than twelve (12) hours on the date hereinabove specified, and agree to remove from the street prior to the end of said period all equipment, vehicles and other personal property placed or driven thereon during the event for which a permit is granted.

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

- (g) **Insurance.** The applicant for a Street Use Permit may be required to indemnify, defend and hold the City and its employees and agents harmless against all claims, liability, loss, damage or expense incurred by the City on account of any injury to or death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the permit, the applicant may be required to furnish a Certificate of Comprehensive General Liability Insurance with the City of Prescott. The applicant may be required to furnish a performance bond prior to being granted the permit.
- (h) **Cleanup Requirements.** The holder of any permit issued under this Section shall return the street to the condition that existed prior to the use, by the time the permit expires. The City will make such restoration in the event that the permit holder for the cost incurred by the City in performing this work. Failure to make timely payment within a reasonable time after receiving the bill shall constitute grounds for refusal to grant the permit holder any other permit in the future.
- (i) **Termination of a Street Use Permit.** A Street Use Permit for an event in progress may be terminated by the Police Department if the health, safety and welfare of the public appears to be endangered by activities generated as a result of the event or the event is in violation of any of the conditions of the permits or ordinances of the City of Prescott. The Chief of Police has the authority to revoke a permit or terminate an event in progress if the event organizers fail to comply with any of the regulations in the street use policy or conditions stated in the permit.

Chapter 8

Regulation of Nonmetallic Mining

7-8-1	Statutory Provisions Adopted
7-8-2	Definitions
7-8-3	Existing Nonmetallic Mining Operations
7-8-4	Exempt Activities
7-8-5	Permit Required for Nonmetallic Mining
7-8-6	Permit Revocation
7-8-7	Blasting and/or Rock Crushing

Sec. 7-8-1 Statutory Provisions Adopted.

This Chapter is adopted pursuant to Section 66.038, Wis. Stats., which is adopted by reference and made a part of this Chapter as if fully set forth herein.

Sec. 7-8-2 Definitions.

The following definitions shall be applicable in this Chapter:

- (a) **Environmental Pollution.** Has the meaning specified under Sec. 144.01(3), Wis. Stats.
- (b) **Nonmetallic Mining or Nonmetallic Mining Operation.** Operations or activities for the extraction from the earth for sale or use by the operator of mineral aggregates such as stone, sand and gravel, fill material and nonmetallic minerals such as asbestos, beryl, clay, feldspar, peat and talc, related operations or activities such as excavation, grading or dredging if the purpose of those operations or activities is the extraction of mineral aggregates and nonmetallic minerals and related processes such as crushing, screening, scalping, dewatering and blending.
- (c) **Nonmetallic Mining Refuse.** Waste soil, rock, mineral, liquid, vegetation and other waste material resulting from a nonmetallic mining operation. This term does not include merchantable by-products resulting directly from or displaced by the nonmetallic mining operation.
- (d) **Nonmetallic Mining Site or Site.** The location where a nonmetallic mining operation is proposed or conducted, including all surface areas from which materials are removed, related storage and processing areas, areas where nonmetallic mining refuse is deposited and areas disturbed by the nonmetallic mining operation by activities such as the construction or improvement of roads or haulageways.
- (e) **Operator.** Any person who is engaged in a nonmetallic mining operation or nonmetallic

mining site reclamation or who applies for or holds a nonmetallic mining permit issued is under this nonmetallic mining reclamation ordinance whether individually, jointly or through subsidiaries, agents, employees, contractors or subcontractors.

- (f) **Reclamation.** The rehabilitation of a nonmetallic mining site including, but not limited to, removal of nonmetallic mining refuse, grading of the site, replacement of topsoil, stabilization of soil conditions, establishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution, construction of fences and, if practical, restoration of plant, fish and wildlife habitat.
- (g) **Replacement of Topsoil.** The replacement of the topsoil which was removed or disturbed by a nonmetallic mining operation or the provision of soil which is at least as adequate as the topsoil which was removed or disturbed for the purposes of providing adequate vegetative cover and stabilization of soil conditions.

Sec. 7-8-3 Existing Nonmetallic Mining Operations.

This nonmetallic mining reclamation Chapter shall apply to any portion of a nonmetallic mining site, including unreclaimed portions of a site which were mined prior to the effective date of this Chapter.

Sec. 7-8-4 Exempt Activities.

This nonmetallic mining reclamation Chapter shall not apply to the following activities:

- (a) Excavations or grading by a person solely for domestic use at his or her residence.
- (b) Excavations or grading conducted for highway construction purposes within the highway right-of-way.
- (c) Grading conducted for farming, preparing a construction site or restoring land following a flood or natural disaster.
- (d) Excavations for building construction purposes.
- (e) Any mining operation, the reclamation of which is required in a permit obtained under Sections 144.80 to 144.94, Wis. Stats.
- (f) Any activities conducted at a solid or hazardous waste disposal site required to prepare, operate or close a solid waste disposal facility under Sections 144.435 to 144.445, Wis. Stats., or a hazardous waste disposal facility under Sections 144.60 to 144.74, Wis. Stats., but a nonmetallic mining reclamation ordinance may apply to activities related to solid or hazardous waste disposal which are conducted at a nonmetallic site separate from the solid or hazardous waste disposal facility such as activities to obtain nonmetallic minerals to be used for lining, capping, covering or constructing berms, dikes or roads.

Sec. 7-8-5 **Permit Required for Nonmetallic Mining.**

- (a) **Permit Required.** No person shall operate any nonmetallic mining site or operation within the City unless he obtains a nonmetallic mining permit from the Common Council. The fee for such permit shall be Fifty Dollars (\$50.00), plus any actual City administrative expenses, payable by certified check. Operators of existing nonmetallic mining operations shall apply for such permit within thirty (30) days of the effective date of this Chapter.
- (b) **Required Permit Information.** An application for a nonmetallic mining permit shall be submitted by the operator and shall include:
 - (1) An adequate description of the operation, including a legal description of the property;
 - (2) A plan of the site showing the proposed and existing roads and drives, and the sources, quantity and disposition of water to be used, if any;
 - (3) Estimated dates for completion of the extraction and commencement and completion dates for the reclamation;
 - (4) A reclamation plan and such other information as may be necessary to determine the nature of the operation and the effect on the surrounding area;
 - (5) Methods of screening from adjacent properties;
 - (6) Hours of operation;
 - (7) Dust and noise control;
 - (8) Maximum depth;
 - (9) Blasting procedures;
 - (10) Location and height of stockpiles; and
 - (11) Such other information the Common Council deems pertinent to the operation.
- (c) **Reclamation Plan.** The reclamation plan shall contain adequate provision that:
 - (1) All final slopes around the area be flatter than a three (3) to one (1) [horizontal] slope in a sand gravel or borrow pit operation, or in a safe angle or repose in a quarrying operation ;
 - (2) Excavations below the grade of the nearest abutting public street or highway shall be set back from the street or highway a distance not less than that required for buildings and structures in the same zoning district;
 - (3) Excavations made to a water-producing depth shall be not less than three (3) feet measured from the low water mark;
 - (4) All final slopes shall be covered with adequate topsoil and seeded to prevent erosion;
 - (5) The plan shall require that, after completion of the anticipated operation, the area shall be cleared of all debris and be left in a workmanlike condition, subject to the approval of the Common Council;
 - (6) There is a timetable for completion of various stages of reclamation of the nonmetallic mining site.
- (d) **Applications.** All applications for a license hereunder shall be made in writing upon the written form provided by the City and distributed by the City Clerk-Treasurer. All

applications for permits hereunder shall be signed by the applicant and filed with the City Clerk-Treasurer at least sixty (60) days prior to the licensing period. The City Clerk-Treasurer shall immediately refer all applications for a license hereunder to the Common Council for public hearing and approval. The operator shall receive written notice of the public hearing. The license shall be for a period of time as stated in the application or as modified by the Council. Modification of the application or reclamation plan may be permitted or additional conditions may be required upon application. The Council shall consider the effect of the operation and the proposed reclamation upon existing and future conditions, including streets, neighboring land development, land use drainage, water supply, water pollution, air pollution, soil erosion, natural beauty and land value of the locality. The Council may approve, approve conditionally or reject the application and reclamation plan.

- (e) **Financial Assurance.** Before a license and reclamation plan is approved by the Common Council, the operator shall submit an agreement and performance bond or cash escrow agreement to assure the following:
- (1) The operator shall pay for the cost of all improvements required in the reclamation plan by the Common Council.
 - (2) Guaranteed completion of the required reclamation within a period determined by the Council.
 - (3) Payment by the operator for aft costs incurred by the City for review and inspection. This would include preparation and review of plans and specifications by the City Engineer and Attorney, as well as other costs of a similar nature.
 - (4) The City may elect to have stages of the reclamation plan performed under the terms of a cash escrow agreement.
 - (5) The required performance bond or cash escrow agreement shall be equal to one and one-quarter (1-1/4) times the City Engineer's estimated cost of the required improvements.
 - (6) If the required reclamation is not complete within the designated period, all amounts held under the escrow agreement or performance bond shall be turned over and delivered to the City and applied to the cost of the required reclamation. Any balance remaining after such reclamation has been done shall be returned to the operator. The Common Council, at its option, may extend the bond period for additional periods.
- (f) **Fences.** Prior to reclamation, nonmetallic mining sites abutting areas zoned residential shall be enclosed by a security fence of not less than four (4) feet in height. Fence gates shall be locked or secured when the site is unattended so as to prevent uncontrolled access by children to the site.
- (g) **Inspection.** An authorized agent of the City may enter the premises of a nonmetallic mining operation in the performance of his or her official duties by permission of the property owner or operator or pursuant to a special inspection warrant issued under Sec. 66.122, Wis. Stats., in order to inspect those premises and to ascertain compliance with this nonmetallic mining reclamation Chapter.
- (h) **Prohibitions and Orders.** Nonmetallic mining operations within the City are prohibited if the nonmetallic mining site cannot be reclaimed in compliance with the standards of this Chapter or if other requirements of this Chapter are not met.

Sec. 7-8-6 Permit Revocation.

If any permit is revoked, cancelled, rescinded or terminated, the operator shall be given written notice of any charges or violations against him or the reasons proposed for revocation and shall have an opportunity to be heard before the Common Council.

Sec. 7-8-7 Blasting and/or Rock Crushing.

- (a) **Definitions.** The following definitions shall apply in the interpretation and enforcement of this Section:
 - (1) **Blasting.** A method of loosening, moving or shattering masses of solid matter by use of explosive compounds to prepare stone for crushing, to prepare stone for building and/or ornamental use, or to prepare property for development.
 - (2) **Person.** Any individual, partner, corporation, company, trustee or association, together with the respective servants, agents and employees thereof.
 - (3) **Rock Crusher.** Any device, machine, apparatus or equipment used either individually or in conjunction with any other device, machine, apparatus or equipment for the purpose of crushing, grinding, breaking or pulverizing rock or stone.
- (b) **Operation.** No person within the City shall operate a rock crusher or perform blasting in such a manner so that any dust, dirt or vibration from such operation shall, in any way, damage or injure any person or property within the City. All blasting within the City shall be performed according to the requirements of Ch. IND 5, Explosives and Blasting Agents, Wis. Adm. Code, and all subsequent amendments thereto.
- (c) **Permit.**
 - (1) **Permit Required.** No person within the City shall operate a rock crusher or perform blasting who does not possess a proper permit therefore from the City.
 - (2) **Applications.** All applications for permits hereunder shall be made in writing upon the written form provided by the City and distributed by the City Clerk-Treasurer. All applications for permits hereunder shall be signed by the applicant and filed with the City Clerk-Treasurer at least sixty (60) days prior to the licensing period. The City Clerk-Treasurer shall immediately refer all applications for permits hereunder to the Director of Public Works. The City Clerk-Treasurer shall issue a permit hereunder only after first receiving the recommendation of the Director of Public Works, the duly executed certified check for the permit fee as hereinafter provided and the submittal of the Plan of Operation, if required, as approved by the Director of Public Works.
 - (3) **Certified Check.** Each application for a permit hereunder shall be accompanied by a certified check in the sum of the required permit fee as hereinafter provided, or a renewal thereof, the same to be payable to the City.

- (4) **Plan of Operation.** Each application to permit a rock crusher hereunder or renewal thereof shall be accompanied by a Plan of Operation which shall include: methods of screening from adjacent properties, hours of operation, hours of blasting and operation of rock crusher, dust and noise control, blasting procedures, location and height of stock piles, whether a rock crusher will be needed and how often, water supply, drainage course, maximum depth, legal description of property in question and other information the Director of Public Works deems pertinent to the proposed operation. Such Plan of Reorganization shall be approved by the Director of Public Works.
- (5) Each application for a blasting permit shall be accompanied by a Certificate of Insurance identifying the City of Prescott as a party insured in the amount of Five Hundred Thousand Dollars (\$500,000.00) for damage to property, and Five Hundred Thousand Dollars (\$500,000.00) for injury to one (1) person and One Million Dollars (\$1,000,000.00) for injury to more than one (1) person caused by the blasting.
- (d) **Renewals.** All requests for renewals of permits hereunder shall be made at least sixty (60) days prior to the expiration date of the permit and must comply with all requirements of Subsection (c) above.
- (e) **Blasting Procedures and Controls.**
- (1) **Energy Ratio.** The allowable vibration of any blast at the nearest occupied or used building off the subject premises shall not exceed an energy ratio of 0.5 or resultant particle velocity of 1.35" per second based on the following formula:
- Energy ratio = 0.5 = 10.823 f ²A² where: f = frequency in cycles per second, A = amplitude or displacement in inches
- Energy ratio = .274 V² (V = resultant particles velocity expressed in inches per second)
- (2) **Measurement of Blasts.** The operator of the quarry operation, when requested to do so by the Director of Public Works, shall measure and submit data to substantiate compliance with the above formula and the operator of the quarry operation, when requested to do so by the Director of Public Works, shall measure air blast. This verification shall be performed by a seismological engineering firm acceptable to the City or by the Director of Public Works. Instrumentation shall be by seismograph similar to VME Seismolog Model "B" and approved seismograph sound measuring equipment or approved equivalents. All expenses for these tests shall be paid by the quarry operator.
- (3) **Blasting Log.** A log in duplicate shall be kept of each blast on forms similar to the one on file with the City Clerk-Treasurer. The original copy of this blasting log shall be filed with the City Clerk-Treasurer within forty-eight (48) hours after the blast, and a copy shall be kept on file at the quarry office.
- (4) **Cover Material.** Operators of quarries for building and/or ornamental stone removal shall cover Primacord, other detonating cord or surface-laid blasting devices with at least one foot (1') of dirt or other suitable cover material.
- (f) **Permit Fee.** The permit fee for any permit issued pursuant to this Section shall be as set forth in Section 1-3-1. No permit fee shall be prorated. All permits issued hereunder shall expire on December 31 following the date of issue.

- (g) **Penalty.** Any person who shall violate any of the provisions of this Section shall be subject to a penalty as provided in Sec. 1-1-7 of this Code of Ordinances. However, upon conviction for the violation of any of the provisions of this Section by the holder of a permit issued hereunder, and in addition to the forfeiture provided, such permit shall thereupon be cancelled, revoked, rescinded and terminated.
- (h) **Enforcement.** Before renewal of any license issued under this Section is refused or any license is revoked, cancelled, rescinded or terminated, the licensee shall be given written notice of any charges or violations against him or the reasons proposed for nonrenewal or revocation and shall have an opportunity to be heard before the Common Council.

Chapter 9

Processions, Parades, Runs, Walks, Bicycle Races and Marathons

7-9-1	Purpose; Definitions
7-9-2	Permit Requirements

Sec. 7-9-1 Purpose; Definitions.

- (a) **Purpose.** The City of Prescott recognizes that City streets and highways are primarily for the use of vehicular travel. It further recognizes a need to use these public streets and highways for processions, parades, runs, walks, bicycle races, marathons, etc., which do not substantially interfere with the public's right to travel on such streets and highways. This Chapter is intended to regulate and control nonvehicular use of the streets and highways and for protecting the general welfare and safety of the persons using the streets and highways within the City. Said authority to regulate is contained in Sec. 349.185, Wis. Stats., and related sections.
- (b) **Definitions.** As used in this Chapter:
- (1) "Processions, parades, runs, walks, marathons, bicycle races, etc.," means their usual and customary usage.
 - (2) "Highways" or "streets" have the meaning set forth in Sec. 340.01, Wis. Stats., and also include areas owned by the City of Prescott which are used primarily for pedestrian or vehicular traffic.

Sec. 7-9-2 Permit Requirements.

- (a) **Permit Required.** No person shall form, direct, lead or participate in any procession, parade, run, walk, marathon, bicycle race, etc., on any street or highway under the jurisdiction of the City unless a permit has been obtained in advance as provided in this Chapter.

- (b) **Exemptions from Permit Requirement.** A permit is not required for assembling or movement of a funeral procession or military convoy. Any parade, etc., sponsored by any agency of the federal or state government, acting in its governmental capacity within the scope of its authority, shall be required to obtain a permit, however shall be exempt from the parade permit fee and insurance requirements contained herein.
- (c) **When Application Must Be Made.** A written application for a permit for any above described function on the streets and highways under the jurisdiction of the City shall be made by one (1) of the organizers or officers to the City Clerk-Treasurer on a form provided by said Clerk-Treasurer no less than fifteen (15) days prior to the usage. Application made less than forty-five (45) days prior to the day of the proposed usage must be made in person.
- (d) **Information Required in Application.** The application shall set forth the following information regarding the proposed usage:
- (1) The name, address and telephone number of the applicant.
 - (2) If the usage is proposed to be conducted for, on behalf of or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorized and responsible heads of such organization.
 - (3) The name, address and telephone number of the person who will be responsible for conducting the usage.
 - (4) The date when the usage is to be conducted and its duration.
 - (5) The assembly area, the starting point, the route to be traveled and the termination point.
 - (6) The number and size of participants or units comprising the usage.
 - (7) If the usage is to be conducted by or for any person other than the applicant, the applicant for such permit shall file with the City Clerk-Treasurer a communication in writing from the person proposing to hold the usage authorizing the applicant to apply for the permit on its behalf.
 - (8) Any additional information which the Clerk-Treasurer finds reasonably necessary for a fair determination as to whether a permit should be issued.
- (e) **Recommendations of Governmental Agencies.** The City Clerk-Treasurer shall submit a copy of the application to the Chief of Police and Director of Public Works.
- (f) **Basis for Discretionary Denial of Permit.** The application may be denied:
- (1) If it is for a usage that is to be held on a work day during hours when and at places where, in addition to the proposed usage, the flow of vehicular traffic is usually delayed by its own volume.
 - (2) If it is for a usage that is to be commenced between the hours of 9:00 p.m. and 9:00 a.m.
 - (3) If sufficient supervision would not be provided as to reasonably assure the orderly conduct of the usage.
 - (4) If the proposed route for conducting usage involves a street or highway under construction or detour route.
- (g) **Mandatory Denial of Permit.** The application shall be denied:
- (1) If it is made less than fifteen (15) days in advance of the time the usage is scheduled to commence; or
 - (2) If it is for a usage that is primarily for private or commercial economic gain; or

- (3) If it is for a usage which would involve violation of federal, state or local laws relating to use of highways or of other applicable regulations of the City; or
 - (4) If the granting of the permit would conflict with another permit already granted or for which application is already pending; or
 - (5) If the application does not contain the information required by Subsection (d): of
 - (6) If more than one (1) assembly area or more than one (1) dispersal area is proposed; or
 - (7) Failure to receive permit under Sec. 84.07(4), Wis., Stats.
- (h) **Permit Issued Unless Threat to Public Safety.** The City Clerk-Treasurer shall issue a permit to the applicant subject to the foregoing requirements of this Chapter, unless the City Clerk-Treasurer concludes that:
- (1) The policing of the usage will require so large a number of persons and vehicles, including ambulances, as to prevent adequate service of the needs of the rest of the municipality; or
 - (2) The usage will substantially hinder the movement of police and fire and other emergency vehicles as to create a substantial risk to persons and property; or
 - (3) The conduct of the usage will substantially interrupt the safe and orderly movement of other traffic contiguous to its route; or
 - (4) The usage is so poorly organized that participants are likely to engage in aggressive or destructive activity.
- (i) **Grant or Denial of Permit.**
- (1) ***Time When Required.*** The City Clerk-Treasurer shall act as promptly as he reasonably can on all applications for permits after consulting with other government agencies directly affected and after consulting with the applicant, if necessary. All applications filed forty-five (45) days or more in advance shall be granted or denied not less than thirty (30) days before the date of the usage stated in the application. Action on applications filed less than forty-five (45) days in advance shall be taken within fifteen (15) days after the application is filed, but in no case later than forty eight (48) hours in advance of the time applied for. The City Clerk-Treasurer shall immediately, by the most reasonable means of communication, notify the applicant of such action and, if the application is denied, the reasons for denial of the permit.
 - (2) ***Modification of Requested Permit.*** In lieu of denying a permit, the Chief of Police may authorize the changing of assembly areas or dispersal areas or the conducting of the usage at a date or time or over a route different than as applied for in the permit. The applicant or permittee may accept such modification by immediately notifying the City Clerk-Treasurer or Chief of Police in writing of such acceptance.
 - (3) ***Fee.*** There shall be paid at the time of filing the application for a non-refundable usage permit a fee as prescribed in Section 1-3-1. The fee may be waived at the discretion of the Common Council.
- (k) **Charge for Increased Costs.** Where the City Clerk-Treasurer determines that the cost of municipal services incident to the staging of the usage will be increased because of the usage, the Clerk-Treasurer may require the permittee to make an additional payment into the general fund of the City in an amount equal to the increased costs.
- (l) **Emergency Revocation.** The City Clerk-Treasurer or Chief of Police may revoke a permit already issued if the official deems that such action is justified by an actual or

potential emergency due to weather, tire, riot, other catastrophe or likelihood of a breach of the peace or by a major change in the conditions forming the basis of the standards of issuance, In lieu of revoking a permit, an above-named official may require the permittee to file evidence of good and sufficient sureties, insurance in force or other evidence of adequate financial responsibility, running to the City of Prescott and such third parties as may be injured or damaged, in a amount depending upon the likelihood of injury or damage as a direct and proximate result of the holding of the usage sufficient to indemnify the municipality and such third parties as may be injured or damaged thereby, caused by the permittee, its agents or participants.

- (m) **Usage Permit Contents.** Each usage permit shall state such information or conditions as the City Clerk-Treasurer shall find necessary to the enforcement of this Chapter.
- (n) **Copies of Usage Permit Distributed.** Immediately upon the issuance of a usage permit, the City Clerk-Treasurer shall send a copy thereof to the following:
 - (1) Each public transportation utility whose regular service will be affected by the usage.
 - (2) Chief of Police, Director of Public Works and Fire Chief.
- (o) **Compliance With Regulations.**
 - (1) **Permittee.** A permittee under this Chapter shall comply with all permit directions and conditions and with all applicable laws, ordinances and other regulations of the state and City.
 - (2) **Participants.** No person who leads or participates in any usage shall disobey or encourage others to disobey this Section after a law enforcement officer has directly and presently informed him or her of any of the provisions of this Section or the terms of the applicable usage permit.
- (p) **Insurance Required.** Prior to issuance of the permit, the City Clerk-Treasurer may require each permittee to furnish evidence of a liability insurance policy in amounts of not less than One Hundred Thousand Dollars (\$100,000.00) for one (1) person and Five Hundred Thousand Dollars (\$500,000.00) for any one (1) accident and shall be in force and effect at the time such usage is to take place. Said evidence of insurance shall include a certificate of insurance naming the City of Prescott as an additional insured in connection with said usage.

Cross-Reference: Section 7-7-1.

Chapter 10

Miscellaneous Licenses

7-10-1	Amusements and Shows
7-10-2	Vending Machines
7-10-3	Pawnbrokers

Sec. 7-10-1 Amusements and Shows.

- (a) **License Required.** No person shall operate for gain within the City any public amusement or entertainment without a license therefore obtained under this Section.
- (b) **Classes of Licenses and Fees.**
- (1) There shall be the following classes and denominations of licenses which, when issued by the Clerk-Treasurer under conditions hereinafter specified after payment of the applicable fee prescribed by Section 1-3-1, shall permit the licensee to hold a public amusement or show.
 - (2) No license shall be required under this Section for events conducted under the sole control and supervision of educational, charitable or religious organizations where the entire proceeds of the show or amusement shall be devoted to the purposes of that organization,
- (c) **Application.**
- (1) **Information Required.** Application for a license required by this Section shall be made to the Clerk-Treasurer on a form furnished by the City and shall contain the following information:
 - a. Name, age and residence of applicant or of principal officers if applicant is a corporation or association.
 - b. Name, age and residence of person designated as manager of the event by the applicant; and designee's previous places of employment.
 - c. Location of premises where the amusement is to be conducted; name and residence of the premises' owner; total area of the premises to be used.
 - d. Specific nature of the amusement or show for which a license is being sought.
 - (2) **Inspection Required.** Applications made under this Section shall be referred by the Clerk-Treasurer to the Chief of Police, and Building Inspector who shall determine

- by inspection whether the premises sought to be licensed complies with applicable City regulations and standards and is a proper place for the purpose proposed.
- (d) **Restrictions.** No license shall be issued for a public amusement or show if any of the following conditions prevail:
- (1) Any of the persons named in the application are not of good moral character; or
 - (2) The proposed location of such amusement or show does not conform to all applicable health and fire regulations; or
 - (3) The premises intended to be licensed for such amusement or show are not a safe and proper place for the purpose; or
 - (4) Any applicant or applicants for a license have had a license issued under provisions of this Section revoked within two (2) years of the date of application; or
 - (5) The proposed location of such amusement or show is within a residential district; or
 - (6) The applicant has been refused a license within the last six (6) months, unless such applicant can show that the reason for such refusal no longer exists; or
 - (7) The applicant is under eighteen (18) years of age; or
 - (8) There has been no reinspection of the premises for renewal of such a license.
- (e) **Special Protection.** In addition to such license fees as shall be required by Subsection (b) above, applicants for public amusement and show licenses shall pay for such special police protection as the City licensing authority may deem necessary to preserve peace and order at the licensed event. Such payment shall be made to the Clerk-Treasurer before issuance of any license.
- (f) **Suspension of License.** The Mayor or Chief of Police may, at any time, suspend for not more than ten (10) days any license granted under these provisions for disorderly conduct on the premises or for the violation by the licensee, his/her agents or employees of any of the rules, regulations, ordinances, or laws of the State or City governing or applying to public peace, safety, morals or general welfare.

Sec. 7-10-2 Vending Machines.

- (a) **Purpose.** The purpose of this Section is to safeguard the citizens of the City while protecting the rights of the business people and the vending machine owners and operators.
- (b) **Vending Machine Defined.** For the purpose of this Section, a "vending machine" is any single device or any number of devices designed for and used to dispense food, soft drinks, beer, candy, cigarettes, newspapers or any other item dispensed from a machine. Included in this definition are such devices, which may be freestanding or attached to the sides of buildings, posts or other outside structures,
- (c) **Restrictions.** No vending machine may be placed or maintained in a public right-of-way without securing a permit from the City and the payment of an annual vending machine license fee for such vending machine. Each vendor shall be required to secure one (1) permit for all of its vending machines in the City. To that permit a list of all vending machines covered by the permit will be attached. The vendor shall notify the City in writing at the time new vending machines are being added or deleted from the list. Notification to the City shall be accompanied by a description of the location of the vending machine and a separate permit fee for new vending machines. A certificate of

liability insurance shall be filed with the City covering claims for damages, which might arise out of the use or placement of such vending machine, naming the City as an additional insured. The minimum limits of liability shall be One Hundred Thousand Dollars (\$100,000)/Three Hundred Thousand Dollars (\$300,000).

- (d) **Placement.** Placement of vending machine shall comply with the following conditions:
- (1) A vending machine may be placed no nearer than four (4) feet from the roadway curb of the edge of the roadway where no curb exists.
 - (2) No vending machine may be attached to a public facility, such as a utility pole, roadway sign or fireplug.
 - (3) No vending machine may be placed in a public right-of-way adjacent to a property zoned residential and containing four (4) residential units or less.
 - (4) No more than one (1) vending machine per newspaper publisher may be placed within eight hundred (800) feet of any other vending machine of that same publisher.
- (e) **Removal.** Each vending machine licensee who has placed or places a vending machine under this Section shall provide the City with a self-addressed postcard, printed in such a manner that the City may instruct the vendor to remove the vending machine. A licensee shall remove a vending machine if its location is a safety hazard, significantly interferes with pedestrian or vehicular traffic on the right-of-way or to permit right-of-way maintenance and/or improvements. If the licensee receives instruction from the City to remove the vending machine, the licensee shall remove the vending machine within ten (10) days of the receipt of the instructions or, failing that, such removal may be accomplished by the City. All expense incurred in the removal of such vending machine shall be reimbursed by the licensee.

Cross-Reference: Section 6-2-19.

SEC. 7-10-3 PAWNBROKERS IN THE CITY OF PRESCOTT

1. DEFINITIONS.

- (a) **Article** – Any item of value.
- (b) **Billable Transaction** - Every reportable transaction except renewals, redemption, voids or extension of existing pawns or purchases previously reported and continuously in the pawnbroker's possession.
- (c) **Charitable organization** – Corporation, trust or community chest, fund or foundation organized and operated exclusively for religious, charitable, scientific, literary or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earning of which inures to the benefit of any private shareholder or individual.
- (d) **Customer** – A person with whom a pawnbroker, or an agent thereof, engages in a transaction of purchase, sale, receipt or exchange of any secondhand article.

(e) **Pawnbroker** - Any person who engages in the business of lending money on the deposit or pledge of any article or purchasing any article with an expressed or implied agreement or understanding to sell it back at a subsequent time at a stipulated price. To that extent a pawnbroker's business includes buying personal property previously used, rented, leased or selling it on consignment, the provisions of this chapter shall be applicable. A person is not acting as a pawnbroker when engaging in any of the following:

- (1) Any transaction at an occasional garage or yard sale, an estate sale, a gun, knife, gem or antique show or a convention.
- (2) Any transaction entered into by a person engaged in the business of junk collector, junk dealer or scrap processor, as described in Wis. Stats. Section 70.995 (2) (x)
- (3) Any transaction while operating as a charitable organization or conducting a sale, the proceeds of which are donated to a charitable organization.
- (4) Any transaction between a buyer of a new article and the person who sold the article when new that involved any of the following:
 - a. The return of the article.
 - b. The exchange of the article for a different, new article.
- (5) Any transaction as a purchaser of a secondhand article from a charitable organization if the secondhand article was a gift to the charitable organization.
- (6) Any transaction as a seller of a secondhand article that the person bought from a charitable organization if the secondhand article was a gift to the charitable organization.

(f) **Reportable Transaction** – every transaction conducted by a pawnbroker in which an article or articles are received through a pawn is renewed, extended, voided or redeemed or for which a unique transaction number or identifier is generated by their point-of-sale software, and is reportable except:

- (1) The bulk purchase or consignment of new or used articles for a merchant, manufacturer or wholesaler having an established permanent place of business and the retail of said articles, provided the pawnbroker must maintain a record of such purchase or consignment that describes each item, and must mark each item in a manner that relates it to that transaction record.
- (2) Retail and wholesale sales of articles originally received by a pawn or Purchase, and for which all applicable hold and/or redemption periods have expired.

2. INSPECTION OF ITEMS

At all times during the term of the license, the pawnbroker must allow the police department to enter the premises where the licensed business is located, including all off-site storage facilities, during normal business hours, except in an emergency, for the purpose of inspecting such premises and inspection the items, wares, merchandise, and records therein to verify compliance with this chapter or other applicable laws.

3. BUSINESS AT ONLY ONE PLACE

A license under this chapter authorizes the pawnbroker to carry on its business only at the permanent place of business designated in the license. However, upon written request, the city council may approve an off-site locked and secured storage facility. The pawnbroker shall permit inspection of the storage facility. All provisions of this chapter regarding record keeping and reporting apply to the facility and its contents. Property shall be stored in compliance with all provisions of this code. The pawnbroker must either own the building in which the business is conducted, and any approved off-storage facility, or have a lease on the business premise that extends for more than six months.

4. LICENSE

No person may operate as a pawnbroker in the city unless the person first obtains a pawnbroker's license under this chapter.

5. DISPLAY OF LICENSE

Each license issued under this chapter shall be displayed in a conspicuous place visible to anyone entering the licensed premises.

6. LICENSE APPLICATION

A person wishing to operate as a pawnbroker shall apply for a license to city hall. The city shall furnish application forms approved by the police department that shall require all of the following:

- (1) The applicant's name, place and date of birth, residence address, and residence addresses for the ten-year period prior to the date of the application.
- (2) The name and address of the business and the owner of the business premises.
- (3) Whether the applicant is a natural person, corporation, limited liability company, or partnership and:
 - a. If the applicant is a corporation, the state where incorporated and the names and address of all officers and directors.
 - b. If the applicant is a partnership, the names and address of all partners.
 - c. If the applicant is a limited liability company, the names and addresses of all members.
 - d. The name of the manager or proprietor of the business.
 - e. Any other information that the city may reasonably require.
- (4) A statement as to whether the applicant, including an individual, agent,

officer, director, member, partner or proprietor, has been convicted of any crime, statutory violation punishable by forfeiture, or county or municipal ordinance violation. If so, the applicant must furnish information as to the date, location and reason for the action.

- (5) Whether the applicant or any other person listed in subsection (4) above has previously been denied or had revoked or suspended a pawnbroker license from any other governmental unit. If so, the applicant must furnish information as to the date, location and reason for the action.

7. INVESTIGATION OF LICENSE APPLICANT.

The police department shall investigate each applicant and any other person listed in section (6) above for a pawnbroker license. The department shall furnish the information derived from that investigation in writing to the city council. The investigation shall include each agent, officer, member, partner, manager or proprietor.

8. LICENSE ISSUANCE.

(a) The City Council may grant the license if all of the following apply:

- (1) The applicant, including an individual, a partner, a member of a limited liability company, a manager, a proprietor, or an officer, director or agent of any corporate applicant does not have an arrest or conviction record subject to Wis. Stats. Sections 111.321, 111.322 and 111.335.
- (2) The applicant provides to the city administrator a bond of \$2,500 for the observation of all municipal ordinances or state or federal laws relating to pawnbrokers. The bond must be in full force and effect at all times during the terms of the license
- (3) No license issued under this subsection may be transferred.
- (4) Each license for a pawnbroker is valid from January 1 until the following December 31.

9. REQUIREMENTS.

(a) **Identification.** No pawnbroker may engage in a transaction of purchase, receipt or exchange of any secondhand article from a customer without first securing adequate identification from the customer. At the time of the transaction, the pawnbroker shall require the customer to present one of the following types of identification:

- (1) Current, valid Wisconsin driver's license;
- (2) Current, valid Wisconsin identification card;
- (3) Current, valid photo identification card or photo driver's license issued by another state or province of Canada
- (4) Current, valid Armed Services identification card.

(b) Transactions with minors.

- (1) Except as provided in subsection (b) (2), no pawnbroker may engage in a transaction of purchase, receipt or exchange of any secondhand article from any minor, defined as a person under the age of 18 years.
- (2) A pawnbroker may engage in a transaction described under subsection (b) (1) if the minor is accompanied by his or her parent or guardian at the time of the transaction and the parent or guardian signs the transaction form and provides identification as required by this section.

(c) Records Required. At the time of any reportable transaction other than renewals, extensions or redemptions, every pawnbroker must immediately record in English the following information by using ink or other indelible medium on forms or in a computerized record approved by the police department:

- (1) A complete and accurate description of each item, including, but not limited to any trademark, identification number, serial number, model number, brand name, or other identifying mark on such item.
- (2) The purchase price, amount of money loaned upon or pledged therefore.
- (3) The maturity dates of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges.
- (4) Date, time and place the item of property was received by the pawnbroker and the unique alpha and/or numeric transaction identifier that distinguishes from all other transactions in the pawnbroker's record.
- (5) Full name, current address, current residence telephone number, date of birth and accurate description of the person from whom the item of property was received, including date of birth, sex, height, weight, race, color of eyes and color of hair.
- (6) The identification number and state of issue from any of the following form of identification of the seller:
 - (a) Current, valid Wisconsin driver's license;
 - (b) Current, valid Wisconsin identification card;
 - (c) Current, valid photo identification card or photo driver's license issued by another state or province of Canada
 - (d) Current, valid Armed Services identification card.
- (7) The signature of the person identified in the transaction.
- (8) The pawnbroker must also take a video recording of each customer involved in a billable transaction, and every item pawned or sold. The video recording must be electronically referenced by time and date so they can be readily matched and correlated with all other records of the transaction to which they relate. The pawnbroker must inform the person that he or she is being videotaped by displaying a sign no smaller than eight and one-half (8 ½) inches by eleven (11) inches in a conspicuous place on the premises. The pawnbroker must keep the exposed videotape for three months.

- (9) Renewals, extensions and redemptions. The pawnbroker shall provide the original transaction identifier, the date of the current transaction, and the type of transaction for renewals, extensions and redemptions.
- (10) Record retention. Data entries shall be retained for at least three years from the date of transaction.
- (11) For every secondhand article purchased, received, or exchanged by a pawnbroker from a customer of the pawnbroker's premises, or consigned to the pawnbroker for sale on their premises, the pawnbroker shall keep a written inventory. In this inventory, the pawnbroker shall record the name and address of each customer, the date, time and place of the transaction, and a detailed description of the article that is the subject of the transaction. The customer shall sign his or her name on a declaration of ownership of the secondhand article identified in the inventory and shall state that he or she owns the secondhand article. The pawnbroker shall retain an original and duplicate of each entry and declaration of ownership relating to the purchase, receipt or exchange of any secondhand article for not less than one year after the date of the transaction, except as provided in subsection (e), and shall make duplicates of the inventory and declarations of ownership available to any law enforcement officer for inspection at any reasonable time.

(d) Holding Period.

- (1) Except as provided in subsection (d) (3), any second hand article purchased or received by a pawnbroker shall be kept on the premises or other place for safekeeping for not less than 30 days after the date of purchase or receipt, unless, the person known by the pawnbroker to be the lawful owner of the secondhand article redeems it.
- (2) During the period set forth in subsection (d) (1) the secondhand article shall be separate from saleable inventory and may not be altered in any manner. The pawnbroker shall permit any law enforcement officer to inspect the secondhand article during this period. Within 24 hours after a request of a law enforcement officer during this period, a pawnbroker shall make available for inspection any secondhand article, which is kept off the premises for safekeeping.
- (3) Subsections (d) (1) and (2) do not apply to a secondhand article being consigned to a pawnbroker

(e) Redemption Period. Any person pledging, pawning or depositing any item for security must have a minimum of 60 days from the date of that transaction to redeem the item before it may be forfeited and sold. During the 60-day holding period, items may not be removed from the licensed location. Pawnbrokers are prohibited from redeeming any item to anyone other than the person to whom the receipt was issued, to any person identified in a written and notarized authorization to redeem the property identified in the receipt or to a person

identified in writing by the pledger at the time of the initial transaction and signed by the pledger, or with the approval of the police department. Written authorization for the release of property to person other than the original owner must be maintained along with the transaction record in accordance with subsection (c) (10).

(f) Police order to hold property.

(1) **Investigative hold.** Whenever a law enforcement officer from any agency notifies a pawnbroker not to sell an item, the item must not be sold or removed from the premises. The investigative hold shall be confirmed in writing by the originating agency within 72 hours and will remain in effect for 15 days from the date of initial notification, or until the investigative order is canceled, or until an order to confiscate is issued, pursuant to subsection (2), whichever comes first.

(2) Order to confiscate:

1. If an item is identified as stolen or evidence in a criminal case, the police department may physically confiscate and remove it from the pawnshop, pursuant to a written order from the police department.
2. When an item is confiscated, the person doing so shall provide identification upon the request of the pawnbroker and shall provide the pawnbroker with the name and phone number of the confiscating officer and the case number related to the confiscation.
3. When an order to confiscate is no longer necessary, the police department shall so notify the pawnbroker.

(g) Daily report to police

- (1) Pawnbrokers must submit every reportable transaction to the police department daily in the following manner. Pawnbrokers must provide to the police department all information required in subsection (c), and other required information, by transferring it from their computer to APS via modem. All required records must be transmitted completely and accurately after the close of business each day in accordance with standards and procedures established by the police department using procedures that address security concerns of the pawnbroker and police department. The pawnbroker must display a sign of sufficient size in a conspicuous place on the premises, which informs all patrons that all transactions are reported daily to the police department and APS.
- (2) Billable transaction fees. Pawnbrokers will be charged for each billable transaction reported to the police department. These fees are intended to pay for the cost of participation in APS
- (3) If a pawnbroker is unable to successfully transfer the required reports by modem, the pawnbroker must provide the police department with printed copies of all reportable transactions by 12:00 noon the next business day.
- (4) If the problem is determined to be in the pawnbroker's system and is not

corrected by the close of the first business day following the failure, the pawnbroker must provide the required reports as detailed in subsection (3) shall be charged a daily reporting failure fee of \$10.00 until the error is corrected, or, if the problem is determined to be outside the pawnbroker's system, the pawnbroker must then provide the required reports in subsection (3), and resubmit all such transaction via modem when the error is corrected.

- (5) If a pawnbroker is unable to capture, digitize or transmit the photographs required in subsection (c), the pawnbroker must immediately take all required photographs with a still camera, cross-reference the photographs to the correct transaction, and make the pictures available to the police department upon request
- (6) Regardless of the cause or origin of the technical problems that prevented the pawnbroker from uploading the reportable transactions, upon correction of the problem, the pawnbroker shall upload every reportable transaction from every business day the problem has existed.
- (7) The provisions of this section notwithstanding, the police department may, upon presentation or extenuating circumstances, delay the implementation of the daily reporting penalty.
- (8) Exception for customer return or exchange. Nothing in this section applies to the return or exchange from a customer to a pawnbroker of any secondhand article purchased from the pawnbroker.

10. Receipt required.

Every pawnbroker must provide a receipt to the party identified in every reportable transaction and must maintain a duplicate of that receipt for three years. The receipt must include at least the following information:

- a. The name, address and telephone number of the licensed business.
- b. The date and time the item was received by the pawnbroker.
- c. Whether the item was pawned or sold, or the nature of the transaction.
- d. An accurate description of each item received, including, but not limited to, any trademake, identification number, serial number, model number, brand name, or other identifying marks on such an item.
- e. The signature or unique identifier of the pawnbroker or employee that conducted the transaction.
- f. The amount advanced or paid.
- g. The monthly and annual interest rates, including all pawn fees and charges.
- h. The last regular day of business by which the item must be redeemed by the pledger without risk that the item will sold, and the amount necessary to redeem the pawned item on that date.
- i. The full name, residence address, residence telephone number and date of birth of the pledger or seller.
- j. The identification number and sate of issue from any of the following forms of identification of the seller:

- i. Current, valid Wisconsin driver's license;
 - ii. Current, valid Wisconsin identification card;
 - iii. Current, valid photo identification card or photo driver's license issued by another state or province of Canada
 - iv. Current, valid Armed Services identification card.
- k. Description of the pledger or seller, including sex, approximate height, weight, race, color of eyes and color of hair.
- l. The signature of the pledger or seller.

11. Label Required.

Pawnbrokers must attach a label to every item at the time it is pawned, purchased or received in inventory from any reportable transaction. Permanently recorded on this label must be the number or name that identifies the transaction in the pawnshop's records, the transaction date, the name of the item and the description or the model and serial number of the items as reported to the police department, whichever is applicable, and the date the item is out of pawn or can be sold, if applicable. Labels shall not be reused.

12. Prohibited acts.

- (a) No person under the age of 18 years may pawn or sell or attempt to pawn or sell goods with any pawnbroker nor may any pawnbroker receive any goods from a person under the age of 18 years, except as permitted in section (b) (2).
- (b) No pawnbroker may receive any goods from a person of unsound mind or an intoxicated person.
- (c) No pawnbroker may receive any goods, unless the seller presents identification in the form of a valid driver's license, a valid state of Wisconsin identification card, or current valid photo driver's license or identification card issued by the state of residency or province of Canada or a current, valid Armed Services identification card from whom the item was received.
- (d) No pawnbroker may receive any item of property that possesses an altered or obliterated serial number or other identification number, or any item of property that has had its serial number removed.
- (e) No person may pawn, pledge, sell, consign, leave or deposit any article of property not their own, nor shall any person pawn, pledge, sell, consign, leave or deposit the property of another, whether with permission or without, nor shall any person pawn, pledge, sell, consign, leave or deposit any article of property in which another has a security interest with any pawnbroker.
- (f) No person seeking to pawn, pledge, sell, consign, leave or deposit any article of property with any pawnbroker shall give a false or fictitious name, nor give a false date of birth, nor give a false or out-of-date address of residence or telephone number, nor present a false or altered identification or the identification of any other to any pawnbroker.

13. License denial, suspension or revocation.

- (a) A license issued hereunder may be denied, revoked, or suspended by the city council upon administrative determination that the licensee has committed fraud, misrepresentation, or provided a false statement in the application for a license or violated this chapter, or Section 134.71, 943.34, 948.62 or 948.63 Wis. Stats., or violated any local, state or federal law substantially related to the businesses licensed under this chapter.
- (b) The city council may deny, suspend, or revoke any license issued under this section upon administrative determination that the applicant is not a citizen of the United States or a resident alien, or upon whom it is impractical or impossible to conduct a background or financial investigation due to the unavailability of information.

14. Fees

- (a) The license fee under this chapter shall be as contained in the City of Prescott fees and licenses schedule. The license fee will include the cost for the Prescott Police Department's monthly membership in the Automated Pawn System.
- (b) A billable transaction fee as contained in the City of Prescott fees and license schedule shall be charged for each billable transaction, and such fees shall be billed to each pawnbroker monthly and are due and payable within 30 days of the billing date. Failure to pay within that time period is a violation of this chapter.

15. Penalty

Any person who is convicted of violating any of the provision of this chapter shall forfeit not less than \$10 nor more than \$500, plus the costs of prosecution, and in default of such payment, shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding 90 days. Each day of violation shall constitute a separate offense.

16. Severability.

If any section of this ordinance is found to be unconstitutional or otherwise invalid, the validity of the remaining sections shall not be affected.

Chapter 11

Licensees to Pay Local Claims; Appellate Procedures; Records Checks

- 7-11-1 Licensees Required to Pay Local Taxes, Assessments and Claims; Appellate Procedures
- 7-11-2 Records Checks

Sec. 7-11-1 Licensees Required to Pay Local Taxes, Assessments and Claims; Appellate Procedures.

- (a) **Payment of Claims as Condition of License.**
 - (1) The City shall not issue or renew any license to transact any business within the City of Prescott:
 - a. For any purposes for which taxes, assessments or other claims of the City are delinquent and unpaid.
 - b. For any person who is delinquent in payment:
 - 1. Of any taxes, assessments or other claims owed the City; or
 - 2. Of any forfeiture resulting from a violation of any City Ordinance.
 - (2) This Section shall apply to licenses issued pursuant to the provisions of Title 7 of this Code of Ordinances, except Chapters 1 and 5.
 - (3) An application for renewal of a license subject to this Chapter shall be denied pursuant to the provisions of Subsection (a) only following notice and opportunity for hearing as provided by Subsection (d) below.

- (b) **Appeals; Notice and Hearing.** Prior to any denial of an application for renewal of a license, including denials pursuant to Subsection (a), the applicant shall be given notice and opportunity for a hearing as hereinafter provided:
- (1) With respect to licenses renewable under Chapter 2 of Title 7 of this Code of Ordinances, notice and opportunity for hearing shall be as provided by Section 125.12, Wis. Stats., as amended from time to time.
 - (2) With respect to licenses other than those described in Subsection (a) herein, the Common Council shall notify the applicant in writing of the City's intention not to renew the license and shall provide the applicant with an opportunity for hearing. The notice shall state the reasons for the intended action and shall establish a date, not less than three (3) days nor more than ten (10) days after the date of the notice on which the applicant shall appear before the Common Council. If the applicant shall fail to appear before the Common Council on the date indicated on the notice, the Common Council shall deny the application for renewal. If the applicant appears before the Common Council on the date indicated in the notice and denies that the reasons for nonrenewal exist, the Common Council shall conduct a hearing with respect to the matter. At the hearing, both the City and the applicant may produce witnesses, cross examine witnesses and be represented by counsel. The applicant shall, upon request, be provided a written transcript of the hearing at the applicant's expense. If the Common Council determines the applicant shall not be entitled to renewal pursuant to Subsection (a), the application for renewal shall be denied,
 - (3) **Other License Denial Appeals.** Where an individual, business or corporation wishes to appeal the City Clerk-Treasurer's decision not to issue a license or permit under this Title on grounds other than those specified in Subsections (a) through (d) above, the applicant may file a request in writing with the City Clerk-Treasurer that the matter be referred to the Common Council. A public hearing shall be scheduled within fourteen (14) calendar days by the Common Council. All parties may be represented by counsel. The Common Council shall consider all relevant information and shall render a decision which shall be binding.

Sec. 7-11-2 Records Checks.

Applicants for any license specified in this Title, except under Chapters 1 or 5, shall be required to pay a CIB investigation fee prescribed by Section 1-3-1 at the time of making such application. The City may also require payment of such fee and a records investigation for license renewals.