

## TITLE 7

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# Licensing and Regulation

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## Title 7 ► Chapter 1

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# Licensing of Dogs; Regulation of Animals

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### **Sec. 7-1-1 Dog Licenses Required; Definitions.**

- (a) **License Required.** It shall be unlawful for any person in the City of Amery to own, harbor or keep any dog for more than five (5) months of age after July 1 of the license year

without complying with the provisions of this Chapter relating to the listing, licensing and tagging of the same.

- (b) **Definitions.** In this Chapter, unless the context or subject matter otherwise require:
- (1) **Owner.** Any person owning, harboring or keeping a dog or cat and the occupant of any premises on which a dog or cat remains or to which it customarily returns daily for a period of ten (10) days; such person is presumed to be harboring or keeping the dog or cat within the meaning of this Section.
  - (2) **At Large.** To be off the premises of the owner and not under the control of some person either by leash or otherwise, but a dog or cat within an automobile of its owner, or in an automobile of any other person with the consent of the owner of said dog or cat, shall be deemed to be upon the owner's premises.
  - (3) **Dog.** Any canine, regardless of age or sex.
  - (4) **Cat.** Any feline, regardless of age or sex.
  - (5) **Neutered.** As used herein as describing a dog or cat shall mean 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. 967.02(5), Wis. Stats., and includes a humane officer under Sec. 58.07, Wis. Stats., but does not include a conservation warden appointed under Sec. 23.10, Wis. Stats.
  - (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.
  - (12) **Restrain.** Includes notifying the dog or cat's owner or an officer and requesting either the owner or officer to capture and restrain the dog or cat, or capturing and restraining the dog or cat, and killing the dog or cat if the circumstances require immediate action.
  - (13) **Untagged.** Not having a valid license tag attached to a collar kept on the dog whenever the dog is outdoors unless the dog is securely confined in a fenced area.

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

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

- (a) **Rabies Vaccination.** The owner of a dog shall have the dog vaccinated against rabies by a veterinarian within thirty (30) days after the dog reaches four (4) months of age and

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

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

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

### **(a) Dog Licenses.**

- (1) It shall be unlawful for any person in the City of Amery to own, harbor or keep any dog more than five (5) months of age without complying with the provisions of Sec. 174.05 through Sec. 174.10, Wisconsin Statutes, relating to the listing, licensing and tagging of the same.
- (2) The owner of any dog more than five (5) months of age on January 1 of any year, or five (5) months of age within the license year, shall annually, or on or before the date the dog becomes five (5) months of age, pay a license tax and obtain a license.
- (3) Dog owners shall pay the City Administrator annually the sum prescribed by Section 1-3-1 for each neutered male dog and spayed female dog, and prescribed by Section 1-3-1 for each unneutered male or unspayed female dog.
- (4) Upon payment of the required license tax and upon presentation of evidence that the dog is currently immunized against rabies, as required by Section 7-1-2 of this Chapter, the City Administrator shall complete and issue to the owner a license for such dog containing all information required by state law. The City Administrator shall also deliver to the owner, at the time of issuance of the license, a tag of durable material bearing the same serial number as the license, the name of the county in which issued and the license year.
- (5) The owner shall securely attach the tag to a collar and the collar with the tag attached shall be kept on the dog for which the license is issued at all times, except as provided in Section 7-1-2(e).
- (6) The fact that a dog is without a tag attached to the dog by means of a collar shall be presumptive evidence that the dog is unlicensed. Any law enforcement or humane officer shall seize, impound or restrain any dog for which a dog license is required which is found without such tag attached.
- (7) Notwithstanding the foregoing, every dog specifically trained to lead blind or deaf persons is exempt from the dog license tax, and every person owning such a dog shall receive annually a free dog license from the City Administrator upon application therefor.

### **(b) Multiple Dog (Kennel) Licenses.**

- (1) Any person who keeps or harbors multiple dogs or operates a kennel may, instead of the license tax for each dog required by this Chapter, apply for a multiple dog license for the keeping of multiple dogs or operating of a kennel. Such person shall pay for the license year a fee prescribed by Section 1-3-1 for twelve (12) or fewer dogs and an additional fee for each dog in excess of twelve (12). Upon payment of the required multiple dog license tax and, if required by the Common Council, upon presentation of evidence that all dogs over five (5) months of age are currently immunized against rabies, the City Administrator shall issue the multiple dog license and a number of tags equal to the number of dogs authorized to be kept. Kennels

- may only be located in residential areas following a public hearing and approval by the Common Council; the Common Council may attach conditions to such approval as a conditional use under the City's Zoning Code.
- (2) The owner or keeper of multiple dogs shall keep at all times a multiple dog license tag attached to the collar of each dog over five (5) months old kept by the owner or keeper under a multiple dog license but this requirement does not apply to a show dog during competition, to a dog securely confined indoors or to a dog securely confined in a fenced area. These tags may be transferred from one dog to another within the kennel whenever any dog is removed from the kennel. The rabies vaccination tag or substitute tag shall remain attached to the dog for which it is issued at all times but this requirement does not apply to a show dog during competition, to a dog securely confined indoors or to a dog securely confined in a fenced area. No dog bearing a multiple dog tag shall be permitted to stray or to be taken anywhere outside the limits of the kennel unless the dog is in leash or temporarily for the purposes of hunting, breeding, trial, training or competition.
  - (3) The term "kennel" means any establishment wherein or whereon three (3) or more dogs are kept.
  - (4) No multiple dog license shall be issued to the keeper of multiple dogs or operator of a kennel who fails to provide proper food and drink and proper shelter for the dogs in said kennel or who neglects or abandons said dogs. Designated officials shall investigate any complaints regarding the failure to maintain proper standards or investigate any kennel premises upon their own initiative. Expressly incorporated by reference in this Section as minimum standards for kennel keepers or operator are the relevant provisions of Ch. 951, Wis. Stats.
  - (5) A condition of a multiple dog license shall be that the licensed premises may be entered and inspected at any reasonable hour by appropriate City officials without any warrant, and the application for a license hereunder shall be deemed a consent to this provision. Any refusal to permit such inspection shall automatically operate as a revocation of any license issued hereunder and shall be deemed a violation of this Section. Should any kennel or multiple dog premises be found to constitute a public nuisance, the license shall be revoked and the nuisance abated pursuant to City ordinances.

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

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

The City Administrator shall assess and collect a late fee of Five Dollars (\$5.00) from every owner of a dog 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 if the owner failed to obtain a license on or before the dog 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 dogs and 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 Chief of Police shall promptly post in at least three (3) public places in the City notices of quarantine.
- (b) **Exemption of Vaccinated Dog or Cat 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 officer or animal warden 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 officer or animal warden 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) **Destruction of a dog or cat exhibiting symptoms of rabies.** If a veterinarian determines that a dog or cat exhibits symptoms of rabies during the original or extended observation period, the veterinarian shall notify the owner and the officer who ordered the animal quarantined and the officer or veterinarian shall kill the animal in a humane manner and in a manner which avoids damage to the animal's head. If the dog or cat is suspected to have bitten a person, the veterinarian shall notify the person or the person's physician.
- (e) **Delivery of Carcass; Preparation; Examination by Laboratory of Hygiene.** An officer who kills an animal shall deliver the carcass to a veterinarian or local health department. The veterinarian or local health department shall 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 or local health department which prepared the carcass and, if the animal is suspected to have bitten a person, that person or the person's physician.
- (f) **Cooperation of Veterinarian.** Any practicing veterinarian who is requested to be involved in the rabies control program by an officer is encouraged to cooperate in a professional capacity with the 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.

## **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 Amery 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 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.
  - (5) Kills, wounds or worries any domestic animal.
  - (6) Is known by such person to be infected with rabies or to have been bitten by an animal known to have been infected with rabies.
  - (7) In the case of a dog, is unlicensed.
  - (8) Is tied or leashed in a manner that prohibits or impairs the reading of utility meters.
- (b) **Vicious Dogs and Animals — Definitions.**
- (1) A "vicious dog or other animal" shall be defined as follows: Any dog or other animal shall be deemed and be presumed to be vicious if, at any time, it bites and inflicts a serious injury to any person or persons two (2) or more times during the dog's or animal's life under unprovoked circumstances and while off the dog's or animal owner's, keeper's or caretaker's premises or property. If the dog or other animal inflicts serious injury in a manner other than biting, said dog or other animal shall also be deemed and presumed to be vicious under this Section.
  - (2) A "serious injury" shall be defined as any abrasions, bruising, cuts, broken bones, lacerations, internal injuries, torn or pulled ligaments or muscles, head injuries, or any other such similar condition.
  - (3) No vicious dog or other animal as defined herein shall be allowed to be owned, kept, harbored, maintained, or cared for within the City of Amery corporate limits, by any person or legal entity.
- (c) **Penalty for Keeping Vicious Dogs or Animals in Violation of Subsection (b).**
- (1) Any person convicted of violating Subsection (b) above shall pay a forfeiture of Five Hundred Dollars (\$500.00) together with all costs and assessments. Each day that a person owns, harbors, keeps, maintains or cares for any vicious dog or other animal in violation of this Section may be deemed a separate and distinct violation, subject to separate citations and convictions. Furthermore, any violation of Subsection (b) above shall result in a further penalty of having the subject animal or dog impounded by any law enforcement or animal control officer of the City of Amery, or any law

enforcement or animal control officer of any jurisdiction authorized by the City of Amery to enforce or effectuate the City of Amery's ordinances.

- (2) In the event that any vicious dog or animal has been impounded, said dog's or animal's owner shall be required to make arrangements to have said animal removed from the corporate limits of the City of Amery within seven (7) days of impoundment. In the event any impounded animal has not had arrangements made to remove said animal from the corporate limits of the City of Amery within said seven (7) day period, any law enforcement officer or animal control officer for the City of Amery shall be authorized to destroy said animal.

(d) **Potentially Dangerous Dog or Other Animal.**

- (1) **Definitions.** "Potentially dangerous dog or other animal" means the following:

- a. Any dog or other animal which, when unprovoked, on two (2) separate occasions within the immediate prior thirty-six (36) month period, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the dog are off the property of the owner or keeper of the dog.
- b. Any dog or other animal which, when unprovoked, bites a person, causing a less severe injury than is defined in Subsection (b)(2) above.
- c. Any dog or other animal which, when unprovoked, on two (2) separate occasions within the immediate prior thirty-six (36) month period, has killed, seriously bitten, inflicted injury or otherwise caused injury to a domestic animal off the property of the owner or keeper of the dog.

- (2) **Restrictions and Rules Regarding Potentially Dangerous Dogs or Animals.**

- a. If a law enforcement or animal control officer for the City of Amery or any other law enforcement agency having jurisdiction and authority to enforce this Section, has investigated and determined that there exists probable cause to believe that a dog or other animal which is owned, harbored, kept or cared for within the City of Amery corporate limits is potentially dangerous as that term is defined herein, the Chief of Police or animal control officer for the City of Amery or his/her designee, shall petition the Common Council for the City of Amery, for a hearing for the purpose of determining whether or not the dog or other animal in question, should be declared potentially dangerous. Whenever possible, any complaint received from a member of the public which serves as part of the evidentiary basis for the animal control officer or law enforcement officer to find probable cause, shall be sworn to and verified by the complainant and shall be attached to the aforementioned petition. Notice of the hearing before the Common Council shall be given to the owner, caretaker or keeper of the dog or animal in question no less than seven (7) days prior to said hearing, with said notice, together with a copy of the petition, and all sworn complaints to be either served personally, or by first class mail with return receipt requested. All hearings under this Section shall be open to the public.

- b. The hearing body, which shall be the Common Council for the City of Amery, may admit all relevant documents and testimony into evidence including incident reports and affidavits of witnesses, photographs, and personal testimony. The Common Council for the City of Amery shall be the exclusive trier of the issue of whether a dog or other animal is determined to be potentially dangerous. For the Common Council of the City of Amery to determine that a dog or other animal is potentially dangerous, there must be a preponderance of the evidence to establish the same.
- c. Any owner, harbinger, keeper, caretaker, or other interested party who is aggrieved by any decision of the Common Council under this Section shall have the right to appeal the same by filing an action for certiorari with the Circuit Court no more than thirty (30) days from the date that said aggrieved person had received written notice of the Common Council's decision on whether a dog or other animal is potentially dangerous.
- d. After the hearing conducted pursuant to Section 7-1-6(d)(2)a above, the owner, keeper, harbinger or caretaker of the dog or other animal shall be notified in writing of the determination and orders issued, either personally or by first class mail return receipt requested. If a determination is made that a dog or other animal is potentially dangerous as herein provided, the owner, keeper, harbinger or caretaker shall comply with Section 7-1-6(d)(2)h and i in accordance with the time schedule established by the chief law enforcement officer or animal control officer of the City of Amery, but in no case more than thirty (30) days after the date of the determination, or thirty-five (35) days if the notice of the determination is mailed to the owner, keeper, harbinger or caretaker of the dog or other animal.
- e. No dog or other animal may be declared potentially dangerous if any injury or damage is sustained by a person who, at the time the injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner, keeper, harbinger or caretaker of the dog or other animal, or was teasing, tormenting, abusing, or assaulting the dog or other animal, or was committing or attempting to commit a crime. No dog or other animal may be declared potentially dangerous if the dog or other animal was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack or assault. No dog or other animal may be declared potentially dangerous if an injury or damage was sustained by a domestic animal which, at the time of the injury, or damage was sustained, was teasing, tormenting, abusing or assaulting the dog or other animal.
- f. No dog or other animal may be declared potentially dangerous if the injury or damage to a domestic animal was sustained while the dog was working as a hunting dog, herding dog, or predator control dog on the property of or under the

control of its owner, keeper, harbinger or caretaker, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog.

- g. No dog or other animal may be declared potentially dangerous if the injury or damage to another domestic animal was sustained while on the property or premises of the owner, harbinger, keeper or caretaker of the dog or other animal, and the injured domestic dog or animal was upon the property not owned or maintained by the owner of the injured or damaged domestic animal.
  - h. All potentially dangerous dogs or other animals shall be properly licensed and vaccinated. The licensing authority for the City of Amery shall include the potentially dangerous designation in the registration records of the dog, either after the owner or keeper of the dog has agreed to the designation or the Common Council, after hearing, has determined the designation applies to the dog. The City of Amery may charge a potentially dangerous dog fee in addition to the regular licensing fee as to provide for the increased cost of maintaining the records of the dog.
  - i. A potentially dangerous dog or other animal, while on the owner's property, shall, at all times, be kept indoors or in a securely fenced yard from which the dog cannot escape and into which children cannot trespass. A potentially dangerous dog or other animal may be off the owner's premises only if it is restrained by a substantial leash, of appropriate length, and muzzled, and if it is under the control and supervision of a responsible adult while being restrained by said leash and muzzle.
  - j. If a potentially dangerous dog or other animal dies, or is sold, transferred or permanently removed from the City of Amery where the owner, harbinger, keeper or caretaker so resides, said person who owns, keeps, harbors, or caretakes a potentially dangerous dog or other animal shall notify the chief law enforcement officer for the City of Amery or the animal control officer of the change in condition or new location of the potentially dangerous dog or other animal in writing within forty-eight (48) hours of said dog or other animal's remove.
- (e) **Penalty for Violations of Subsection (d)(2).** Any person or entity convicted of violating Section 7-1-6(d)(2) shall pay a forfeiture of Two Hundred Fifty Dollars (\$250.00), together with all costs and assessments. Each day that a person owns, harbors, keeps, maintains or cares for any potentially dangerous dog or other animal in violation of Section 7-1-6(d)(2), may be deemed separate and distinct violations, subject to separate citations and convictions. Furthermore, any violation of Section 7-1-6(d)(2) shall result in a further penalty of having the subject animal or dog impounded by any law enforcement or animal control officer of the City of Amery, or any law enforcement or animal control officer of any jurisdiction authorized by the City of Amery to enforce or effectuate the City of Amery's ordinances, may impound any dog or other animal which is subject to Section 7-1-6(e)(2). In the event that any restricted or prohibited animal or other vicious or potentially

vicious animal or dog has been impounded, said dog's or animal's lawful owner shall be required to make arrangements to have said animal removed from the corporate City of Amery limits within seven (7) days of impoundment. In the event any impounded animal has not had arrangements made to lawfully remove said animal from the corporate City limits within said seven (7) day period, any law enforcement officer or animal control officer for the City of Amery shall be authorized to destroy said animal.

(f) **Unleashed Dogs or Other Animals Running at Large.**

(1) No owner, keeper, harbinger or caretaker of any dog or other animal shall permit the same to be unleashed or unrestrained at any time said dog or other animal is not on the owner's, keeper's, harbinger's, or caretaker's property or premises and which is upon any public street, alley, right-of-way or any school ground, public park, cemetery or other public or private property without the permission of the owner or occupier of the property.

(2) A dog or other animal which is leashed or otherwise restrained by any device that is less than ten (10) feet in length, which is of sufficient strength to restrain and control said dog or other animal, and is held by a person competent to govern and control said animal, who has obtained the age of ten (10) years or more, and is able to prevent said dog or animal from annoying or worrying pedestrians or from trespassing on private or public property. Furthermore, a dog or other animal is not unleashed or uncontrolled and at large if it is properly restrained within a motor vehicle.

(3) Any person or entity who violates this Subsection (f) shall be subject to a forfeiture of not less than Twenty-five Dollars (\$25.00) and not more than One Hundred Dollars (\$100.00), together with any impoundment under Section 7-1-7.

(g) **Owner's Liability for Damage Caused by Dogs or Other Animals; Penalties.** The provisions of Sec. 174.02, Wis. Stats., relating to the owner's liability for damage caused by dogs and other animals together with the penalties therein set forth are hereby adopted and incorporated herein by reference.

(h) **Animals Restricted on Public Grounds and Cemeteries.** No dog or cat shall be permitted in any public playground, school grounds, public park, or swimming area within the City. Dogs and cats are prohibited from being in cemeteries. Every dog specially trained to lead blind persons shall be exempt from this Section.

(i) **Barking Dogs or Crying Cats.**

(1) **Prohibition.** 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 who are of ordinary sensibilities. Such dogs and cats are hereby declared to be a public nuisance. A dog or cat is considered to be in violation of this Section when complaints are filed with the Police Department pursuant to Subsection (i)(2) below.

(2) **Enforcement.**

a. Upon any written complaint to the Police Department, warnings may be issued to the owner of a dog or other animal engaging in the above conduct, that said animal may be in violation of this Section.

- b. Upon any two (2) written complaints in one (1) year by one (1) or more persons, a citation may be issued to the owner of a dog or other animal engaging in the above conduct, subject to forfeiture as provided in Section 7-1-24.
- (j) **Owner's Liability for Damage Caused by Dogs; Penalties.** The provisions of Sec. 174.02, Wis. Stats., relating to the owner's liability for damage caused by dogs together with the penalties therein set forth are hereby adopted and incorporated herein by reference.
- (k) **Trapping and Impounding of Animals by Police Department.** Upon complaint of any real property owner or tenant thereupon that a dog, cat or other domestic animal is running at large in violation of this Section, the Police Department is authorized to live trap the said animal and impound it if, in the opinion of the officer responding to the complaint, such action is warranted. Any dog, licensed or unlicensed, cat or other domestic animal in violation of this Section shall be impounded at the place provided by the City as the City impoundment facility.

## **Sec. 7-1-7 Pit Bulls and Other Regulated Dogs and Animals.**

- (a) **Keeping of Certain Animals Prohibited.** Except as provided herein, it shall be unlawful to keep, harbor, own or in any way possess within the corporate limits of the City of Amery:
  - (1) **Exotic Animals.** 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) **Poisonous Animals.** Any animal having poisonous bites.
  - (3) **Regulated Dogs.** Any regulated dog provided that regulated dogs complying with the provisions of this Section may be kept within the City subject to the standards and requirements set forth in Subsection (b) of this Section. There shall be a presumption that any dog which substantially conforms or exhibits the distinguishing characteristics or substantially conforms to the standards describing the physical characteristics as recognized by the American Kennel Club, the United Kennel Club, or Continental Kennel Club for a particular breed which is regulated by this Section, shall be deemed a dog of the breed so regulated. "*Regulated 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. The Perro de Presa Canario breed of dog, otherwise known as Presa Canario, also known as Canary Dog or Presa dog.
    - e. The Rottweiler breed of dog.
    - f. The Rhodesian Ridgeback breed of dog.

- g. The Mastiff breed of dog.
  - h. Any dog which has the appearance and characteristic of being predominantly of any of the above-listed breed or breeds of dogs.
- (b) **Keeping of Regulated Dogs.** The provisions of Subsection (a) are not applicable to parties who own, keep or harbor regulated dogs within the City of Amery, provided there is full compliance with the following conditions:
  - (1) **Leash and Muzzle.** No person shall permit a regulated 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 regulated 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 the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all regulated dogs on a leash outside the animal's kennel or pen must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.
  - (2) **Confinement.** All regulated dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel except when leashed and muzzled as provided in Subsection (b)(1). All pens or kennels shall comply with all zoning, building and health regulations of the City and shall be kept in a clean and sanitary condition.
  - (3) **Confinement Indoors.** No regulated dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition.
  - (4) **Insurance.**
    - a. All owners, keepers or harborers of regulated dogs must within thirty (30) days of the effective date of this Section provide proof to the City Administrator of public liability insurance in the amounts of:
      - 1. Five Hundred Thousand Dollars (\$500,000.00) for bodily injury or death to any one person with the limit, however, of One Million Dollars (\$1,000,000.00) for bodily injury or death resulting from any one incident/accident; and
      - 2. One Million Dollars (\$1,000,000.00) for property damage resulting from any one incident/accident.
    - b. The City of Amery shall be named as an additional insured under such insurance and a copy of the current in-force policy shall be deposited with the City Administrator. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days' written notice is first given to the City Administrator.
  - (5) **Registration.** All owners, keepers or harborers of regulated dogs shall within thirty (30) days after the effective date of this Section register said dog with the City by filing with the City Administrator two (2) color photographs of the dog clearly showing the color and approximate size of the dog. There shall be a registration fee as prescribed in Section 1-3-1.

- (6) **Reporting Requirements.** All owners, keepers or harborers of registered regulated dogs must within ten (10) days of the incident, report the following information in writing to the City Administrator:
  - a. The removal from the City or death of a registered regulated dog;
  - b. The birth of offspring of a registered regulated dog;
  - c. The new address of a registered regulated dog should the dog be moved within the City of Amery.
  - d. If the registered regulated dog is sold, the name and address of the new owner.
- (7) **Animals Born of Registered Dogs.** All offspring born of registered regulated dogs registered within the City must be removed from the City within six (6) weeks after the birth of said animal.
- (8) **Failure to Comply.** It shall be unlawful for the owner, keeper or harbinger of a registered regulated dog registered with the City to fail to comply with the requirements and conditions set forth in this Section.

## **Sec. 7-1-8 Wolf/Dog Hybrid Regulation and Confinement.**

- (a) **Definitions.** A "wolf/dog hybrid" is defined as any cross-breed resulting from the mating of a domesticated dog and a wolf, coyote jackal or dingo or resulting from the mating of any wolf/dog hybrid and another wolf/dog hybrid or a domesticated dog. As used herein:
  - (1) **Canine Animal.** Includes all members of the family *canidae* except foxes.
  - (2) **Domesticated Dog.** *Canis familiaris*.
  - (3) **Wolf.** Includes both *canis lupus* and *canis niger*.
  - (4) **Coyote.** *Canis latrans*.
  - (5) **Jackal.** *Canis Aurens*.
  - (6) **Dingo.** *Canis dingo*.
- (b) **Prohibition on Unregistered Animals.** No person shall harbor, keep or maintain within the City of Amery any wolf/dog hybrid which has not been registered pursuant to Subsection (k) below on or before January 30, 2005. This prohibition shall not apply to animals being transported through the limits of the City of Amery within a one (1) hour period of time. A pup born to a female wolf/dog hybrid so registered shall be removed from the City of Amery before it has reached the age of five (5) months. Wolf/dog hybrids permitted in the City of Amery shall be confined as set forth in this Section.
- (c) **Removal; Impoundment.** Whenever any person is charged with harboring, keeping or maintaining a wolf/dog hybrid in the City of Amery which has not been registered on or before January 30, 2005, that person shall, to the satisfaction of the Court, remove said animal from the City of Amery until a trial on the citation. If said animal has not been so removed within forty-eight (48) hours of the service of the citation, the said animal may be impounded as directed by the Police Department until the trial on the citation. In that

case, the owner of any such animal shall pay all expenses incurred due to such impoundment, including but not limited to the cost of shelter, food, handling and veterinary care. If it is determined by plea or trial that said animal is a wolf/dog hybrid not registered pursuant to Subsection (k) on or before January 30, 2005, it shall be removed from and not returned to the City of Amery.

(d) **Confinement Requirements.** The owner of any wolf/dog hybrid permitted to be kept in the City of Amery, and the owner of any property on which such wolf/dog hybrid is kept, shall see that the animal is at all times confined according to the minimum requirements of this Section. A wolf/dog hybrid may be kept only in enclosures that meet the following minimum requirements:

- (1) The first enclosure shall be constructed of not less than nine- (9-) gauge galvanized chain link fencing, with mesh openings not greater than two (2) inches, which shall be securely anchored by stainless steel or copper rings, placed at intervals not greater than six (6) inches apart, to a poured concrete base as described herein. Such enclosure shall be not less than five hundred (500) square feet in area, plus two hundred fifty (250) square feet for each additional canine animal kept therein. Such enclosure shall be the location in which any wolf/dog hybrid is primarily kept.
- (2) The first enclosure shall extend to a height of not less than eight (8) feet, and shall be surrounded from ground level to a height of not less than four (4) feet by one-quarter (1/4) inch galvanized mesh screening.
- (3) The first enclosure shall have a full top, which shall also be constructed of not less than nine- (9-) gauge chain link fencing with mesh openings not greater than two (2) inches, and which shall be securely anchored to the sides of the enclosure. The entire base of the first enclosure shall be a poured concrete slab floor at least four (4) inches thick.
- (4) The second enclosure shall consist of a securely anchored fence at least six (6) feet in height, which shall entirely surround the first enclosure, and no part of which shall be nearer than six (6) feet in height, which shall entirely surround the first enclosure, and no part of which shall be nearer than six (6) feet from any part of the first enclosure. Said fence shall be a "vision barrier" fence, no more than five percent (5%) open for through vision, except, however, that the portion of said fence facing the dwelling of the owner of said animals or of the property on which they are kept shall be constructed of not less than nine- (9-) gauge chain link fencing, to provide for observation of said animals. If any portion of said fence is made of wood, the finished or painted side thereof shall face outward from the first enclosure.
- (5) Both enclosures shall be kept locked with case hardened locks at all times when an animal is unattended by an adult. The first (innermost) enclosure shall have double entrance gates or doors situated and constructed in such a fashion as to prevent an animal from escaping past an open gate or door. The gates or doors providing access to the first (innermost) enclosure shall be spring-loaded, so as to shut on their own accord behind anyone entering that enclosure.

- (6) Within the first enclosure, shelter shall be provided adequate to protect the animals confined against weather extremes. The first enclosure shall be regularly cleaned to remove excreta and other waste materials, dirt and trash, in a manner adequate to minimize health hazards and avoid offensive odors.
- (7) The above described enclosures shall be located in the rear yard of any property on which a wolf/dog hybrid is kept, as defined in the City Zoning Code.
- (e) **Transportation and Muzzling of Animals.** A wolf/dog hybrid may be transported only if confined in a secure, locked container, covered with one-fourth (1/4) inch galvanized fine mesh screen. This paragraph shall not prohibit the walking of such animals, provided they are muzzled and restrained by a leather lead, at least one (1) inch in diameter and not exceeding three (3) feet in length, attached to a metal choker-type collar, under the control of an adult. The muzzle must be made in a manner that will not cause injury to the wolf/dog hybrid or unduly interfere with its vision or respiration, but will prevent it from biting any person or animal.
- (f) **Right of Inspection.** To insure compliance with this Section, any person possessing any registration papers, certificate, advertisement or other written evidence relating to the bloodlines or ownership of a canine animal found within the City shall produce the same for inspection on demand of any law enforcement, conservation or public health officer or court.
- (g) **Limitation on Numbers.** No person shall own, harbor or keep in his/her possession on any one parcel of property more than three (3) wolf/dog hybrids over five (5) months of age at any one time, nor shall any person retain a litter or portion of a litter of wolf/dog hybrids longer than five (5) months.
- (h) **Veterinary Exception.** The foregoing provisions of this Section shall not apply to doctors of veterinary medicine in temporary possession of wolf/dog hybrids in the ordinary course of their practice.
- (i) **Abandonment or Negligent Release.** No person shall willfully or negligently release or abandon a wolf/dog hybrid as defined herein within the City.
- (j) **Nonconforming Enclosures.** As to any person keeping wolf/dog hybrids in existing enclosures in the City of Amery on the date of passage of this Section, Subsection (d) shall take effect on January 30, 2003; for all other persons, said Subsection shall take effect and be in force from and after passage and publication as provided by law. The remaining provisions of this Section shall take effect and be in force from and after passage and publication as provided by law.
- (k) **Wolf/Dog Hybrid Registration.** All owners of any wolf/dog hybrid in the City of Amery shall, on or before January 30, 2003, and annually thereafter on or before January 30th of each year, register such animal and provide a current color photograph of such animal with the City Administrator's office and pay a registration fee as prescribed in Section 1-3-1. At the time of registration, each owner of any wolf/dog hybrid kept within the City limits shall provide to the City Administrator proof of liability insurance in the amount of at least

One Million Dollars (\$1,000,000.00) for any acts of property damage, personal injury or other liability incurred by virtue of any injury or damage inflicted by such wolf/dog hybrid. Such insurance shall name the City of Amery as co-insured solely for the purpose of notice of cancellation of such insurance policy.

- (1) **Warning Sign.** The owner or keeper of a wolf/dog hybrid shall display on the premises on which such animal is kept signs warning that there is a wolf/dog hybrid on the property as provided herein. Such signs shall be visible and capable of being read within at least twenty (20) feet of their placement, but shall not be more than two (2) square feet in area, and shall state in bold, capital letters, on a white background, the following: "WARNING — WOLF/DOG HYBRIDS PRESENT". One such sign shall be placed in the front yard of any property on which any wolf/dog hybrid is kept, and additional such signs shall be placed on all gates or doors providing access through the second (outermost) enclosure required above.

## **Sec. 7-1-9 Impoundment of Animals.**

### **(a) Animal Control Agency.**

- (1) The City of Amery 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 Amery does hereby delegate to any such animal control agency the authority to act pursuant to the provisions of this Section.

- ### **(b) Impounding of Animals.**
- In addition to any forfeiture penalty hereinafter provided for a violation of this Chapter, a law enforcement or animal control officer may impound any dog, cat or other animal which habitually pursues any vehicle upon any street, alley or highway of this 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 or otherwise violates any provision of this Chapter.

### **(c) Claiming Animal; Disposal of Unclaimed Animals.**

- (1) **Seizure.** A law enforcement officer or any animal control officer appointed by the Common Council may attempt to capture and restrain dogs or other animals running at large or in other violation of this Chapter, and shall confine and capture or restrain animals in a suitable dog pound or other enclosure. After seizure of animals under this Section by a law enforcement or animal control officer, the animal shall be impounded.
- (2) **Retention and Disposition of Unclaimed Animals.** All dogs or other animals apprehended shall be kept for no less than seven (7) days at the dog pound or other

enclosure and if such animal is not claimed by the rightful owner, representative or keeper, within such time, said animal shall be transmitted to the Humane Society or other designated animal control facility to be handled in accordance with Wisconsin Statutes and the policies of that facility.

- (3) **Notification.** A person who captures or restrains a dog or other animal shall notify or deliver the dog or other animal to the pound or humane society or to any officer within twelve (12) hours of capture or restraint. Any police officer or City official to whom a dog or other animal is delivered shall attempt to notify the owner as soon as possible if the owner is known or can be ascertained with reasonable effort.
- (4) **Claiming Animals.** The owner or representative, or keeper of any dog or other animal so confined may reclaim such animal from the Police Department at any time before transmittal to the pound, if:
  - a. The owner, representative or keeper gives his or her name and address.
  - b. The owner, representative or keeper presents evidence that the dog is licensed and presents evidence that the dog is vaccinated against rabies, or a receipt from a licensed veterinarian for repayment of a rabies inoculation.
  - c. The owner, representative or keeper pays the cost of apprehending, boarding fees, necessary medical treatment and impounding fees, if any.
- (5) **Impounding Costs.** Before any owner can claim and resume possession of any animal impounded under this Section, he/she shall pay to the Police Department the sum of Twenty Dollars (\$20.00) plus Three Dollars (\$3.00) per day or any fraction thereof during which the animal has been impounded or such sum as the Common Council may from time to time establish (or such fees established by the animal control facility, if used). In addition, before an unlicensed dog is released, a license shall be obtained for each unlicensed dog. In the event that an impounded animal is injured or diseased, or if it is unclaimed after seven (7) days of impoundment, it shall be disposed of in a proper and humane manner.
- (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. 7-1-10 Duty of Owner in Case of Animal Bite.**

- (a) If any animal, for which the owner holds a current rabies certificate, is involved in a bite or a scratch incident, the owner shall isolate and confine the animal, under the supervision of a licensed veterinarian for at least ten (10) days from the date of the incident. Supervision of a veterinarian includes at a minimum, examination of the animal, on the first day, on the tenth day, and on one intervening day. If the animal is confined at the residence of the owner, it must not be allowed to come in contact with other animals or people. It cannot be left unattended outside.

- (b) The animal can be taken outside of the residence only to relieve itself, under restraint and under the supervision of an adult.
- (c) Any animal involved in a bite or scratch incident that has not been vaccinated, or has not been re-vaccinated within the prescribed times, must be confirmed at a veterinary hospital, under the supervision of a veterinarian for ten (10) days.
- (d) Under no circumstances can the owner sell, give away, or destroy the animal until it has been released by a licensed veterinarian after the ten (10) day confinement (quarantine) period.

### **Sec. 7-1-11 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 Amery:
  - (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 Amery 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 the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all pit bull dogs on a leash outside the animal's kennel or pen must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.
  - (2) **Confinement.** All registered pit bull dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel except when leashed and muzzled as

- provided in Subsection (b)(1). All pens or kennels shall comply with all zoning and building regulations of the City and shall be kept in a clean and sanitary condition.
- (3) **Confinement Indoors.** No pit bull dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition.
  - (4) **Signs.** All owners, keepers or harborers of registered pit bull dogs within the City shall within ten (10) days of the effective date of this Section display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog". In addition, a similar sign is required to be posted on the kennel or pen of such animal.
  - (5) **Insurance.** All owners, keepers or harborers of registered pit bull dogs must within thirty (30) days of the effective date of this Section provide proof to the Police Department of public liability insurance in a single incident amount of Fifty Thousand Dollars (\$50,000) for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from the ownership, keeping or maintenance of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days written notice is first given to the Police Department.
  - (6) **Registration.** All owners, keepers or harborers of pit bull dogs shall within thirty (30) days after the effective date of this Section register said dog with the City by filing with the Police Department two (2) color photographs of the dog clearly showing the color and approximate size of the dog.
  - (7) **Reporting Requirements.** All owners, keepers or harborers of registered pit bull dogs must within ten (10) days of the incident, report the following information in writing to the Police Department:
    - a. The removal from the City or death of a registered pit bull;
    - b. The birth of offspring of a registered pit bull dog;
    - c. The new address of a registered pit bull dog should the dog be moved within the City of Amery.
    - d. If the registered pit bull dog is sold, the name and address of the new owner.
  - (8) **Animals Born of Registered Dogs.** All offspring born of pit bull dogs registered within the City must be removed from the City within six (6) weeks after the birth of said animal.
  - (9) **Failure to Comply.** It shall be unlawful for the owner, keeper or harborer of a pit bull dog registered with the City to fail to comply with the requirements and conditions set forth in this Section.

## Sec. 7-1-12 Animal Feces.

- (a) **Removal of Fecal Matter.** The owner or person in charge of any dog, cat, horse, or other animal shall not permit solid fecal matter of such animal to deposit on any street, alley or other public or private property, unless such matter is immediately removed therefrom by

said owner or person in charge. 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/her own property by regularly patrolling and properly disposing of the fecal matter.

### **Sec. 7-1-13 Injury to Property by Animals.**

It shall be unlawful for any person owning or possessing an animal, dog or cat to permit such animal, dog or cat to go upon any parkway or private lands or premises without the permission of the owner of such premises and break, bruise, tear up, crush or injure any lawn, flower bed, plant, shrub, tree or garden in any manner whatsoever, or to defecate thereon.

### **Sec. 7-1-14 Animals in Parks and Cemeteries.**

- (a) No dog, cat or other animal shall be allowed in any City park except on a leash. Pet owners shall comply with the provisions of Section 7-1-10 while in parks.
- (b) Animals are prohibited at any time in cemeteries.

### **Sec. 7-1-15 Prohibited and Protected Animals, Fowl, Reptiles and Insects; Farm Animals.**

#### **(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*), gray or timber wolf (*canis lupus*), sea otter (*enhydra lutris*), Pacific ridley turtle (*lepidochelys olivacea*), Atlantic green turtle (*chelonia mydas*), Mexican ridley turtle (*lepidochelys kempi*).
- (2) **Compliance with Federal Regulations.** It shall be unlawful for any person, firm or corporation to buy, sell or offer for sale a native or foreign species or subspecies of mammal, bird, amphibian or reptile, or the dead body or parts thereof, which appears on the endangered species list designated by the United States Secretary of the Interior and published in the Code of Federal Regulations pursuant to the Endangered Species Act of 1969 (Public Law 135, 91st Congress).
- (3) **Regulating the Importation of Certain Birds.** No person, firm or corporation shall import or cause to be imported into this City any part of the plumage, skin or dead

body of any species of hawk, owl or eagle. This paragraph shall not be construed to forbid or restrict the importation or use of the plumage, skin, body or any part thereof legally collected for use by the American Indians for ceremonial purposes or in the preservation of their tribal customs and heritage.

- (b) **Exceptions.** The provisions of Subsections (a) and (c) 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, any party so authorized by the Common Council, or to any person or organization licensed to present a circus, except that such parties shall also have a conditional use permit issued by the Common Council.
- (c) **Wild Animals; Prohibition on Keeping.** It shall be unlawful for any person to keep, maintain or have in his/her possession or under his/her control within the City any poisonous reptile or any other dangerous or carnivorous wild animal, insect or reptile, any vicious or dangerous domesticated animal or any other animal or reptile of wild, vicious or dangerous propensities. Specifically, it shall be unlawful for any person to keep, maintain or have in his/her possession or under his/her 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 (Crocodilia), thirty (30) inches in length or more.
  - (8) Constrictor snakes.
  - (9) Coyotes (Canis latrans).
  - (10) Deer (Cervidae); includes all members of the deer family; for example, whitetailed deer, elk, antelope and moose.
  - (11) Elephants (Elephas and Loxodonta).
  - (12) Game cocks and other fighting birds.
  - (13) Hippopotami (Hippopotamidae).
  - (14) Hyenas (Hyaenidae).
  - (15) Jaguars (Panthera onca).
  - (16) Leopards (Panthera pardus).
  - (17) Lions (Panthera leo).
  - (18) Lynxes (Lynx).
  - (19) Monkeys, old world (Cercopithecidae).
  - (20) Ostriches (Struthio).

- (21) Pumas (*Felis concolor*); also known as cougars, mountain lions and panthers.
  - (22) Rhinoceroses (*Rhinocero tidae*).
  - (23) Sharks (class *Chondrichthyes*).
  - (24) Snow leopards (*Panthera uncia*).
  - (25) Tigers (*Panthera tigris*).
  - (26) Wolves (*Canis lupus*).
  - (27) Poisonous insects.
- (d) **Exceptions; Pet Shops.** The prohibitions of Subsection (c) above shall not apply where the creatures are in the care, custody or control of: a 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; licensed pet shops; 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.
  - (4) No person lives or resides within one hundred (100) feet of the quarters in which the animals are kept.
- (e) **Farm Animals; Miniature Pigs.**
- (1) Except as provided in Section 7-1-24 regarding miniature pigs, it shall be unlawful for any person, firm, or corporation to own, house, keep or possess, in any area within the City of Amery which is zoned as a single family or multi-family residential district or in a general business or highway commercial district, any animals commonly known as farm animals, including, but not limited to, cows, horses, pigs, chickens, goats, sheep, turkeys, roosters, ducks and fowl.
  - (2) The Chief of Police shall have the authority, in addition to other penalties provided herein, to impound said animals as set forth in this Code of Ordinances.

## **Sec. 7-1-16 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:* Sec. 951.11, Wis. Stats.

### **Sec 7-1-17 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:* Sec. 951.13, Wis. Stats.

### **Sec. 7-1-18 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) **Structural 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:* Sec. 951.14, Wis. Stats.

## **Sec. 7-1-19 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/she shall prove that such killing was unwarranted.
  - (5) Section 951.16, Investigation of Cruelty Complaints, and Sec. 951.17, 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 951.15, 951.16 and 951.17, Wis. Stats.

## **Sec. 7-1-20 Cruelty to Animals and Birds Prohibited.**

- (a) **Acts of Cruelty Prohibited.** No person except a law enforcement or animal control 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. 961.14, 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. 7-1-21 Limitation on Number of Dogs and Cats.**

- (a) **Purpose.** The keeping of a large number of dogs and cats within the City of Amery 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 and cats is, therefore, declared a public nuisance.

(b) **Number Limited.**

- (1) No person or family shall own, harbor or keep in its possession more than three (3) dogs and three (3) cats in any residential unit without the prior issuance of a kennel license by the Common Council except that a litter of pups or kittens or a portion of a litter may be kept for not more than ten (10) weeks from birth.
- (2) The above requirement may be waived with the approval of the Common Council when a kennel license has been issued by the City pursuant to Section 7-1-3(b). Such application for waiver shall first be made to the City Administrator who shall forward the request with his/her approval or objection to the Finance Committee of the Police Department on such application. After deliberation, the Finance Committee shall make a recommendation to the Common Council prior to Board action on the matter.

**Sec. 7-1-22 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 Amery 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, wound 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 Amery or its employees or agents from performing their official or authorized duties.

**Sec. 7-1-23 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 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 or 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. 7-1-24 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) **General Requirements.** It is unlawful for any person, party, firm or corporation to keep or maintain within the City of Amery limits a Vietnamese Potbellied Pig without complying with the standards in this Section. 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) **Condition of Maintenance.** Owners shall comply with the following requirements:
- (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 therefrom.
- (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.

### **Sec. 7-1-25 Feeding of Waterfowl and Deer.**

- (a) No person shall feed ducks, geese or other waterfowl or deer within the City limits of Amery.
- (b) The Director of the Department of Public Works shall cause to be erected appropriate no-feeding signs.

**Sec. 7-1-26 Penalties.**

- (a) Any person violating Sections 7-1-16, 7-1-17, 7-1-18, 7-1-19, 7-1-20, 7-1-21, 7-1-22, 7-1-23, 7-1-24 or 7-1-25 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) or imprisoned not more than sixty (60) days or both.
- (c) Any person who violates Sections 7-1-6 through 7-1-15 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) Each day that a violation of this Chapter continues shall be deemed a separate violation. Any dog found to be the subject of a violation of this Section shall be subject to immediate seizure, impoundment and removal from the City by City officials in the event the owner or keeper of the dog fails to remove the dog from the City. In addition to the foregoing penalties, any person who violates this Chapter shall pay all expenses including shelter, food, handling and veterinary care necessitated by the enforcement of this Chapter.





- 7-2-33** Operator's License Fee; Provisional Licenses; Temporary License
- 7-2-34** Issuance or Denial of Operator's Licenses
- 7-2-35** Training Course
- 7-2-36** Display of License
- 7-2-37** Revocation of Operator's License
- 7-2-38 through**
- 7-2-39** Reserved for Future Use

## Article A: Fermented Malt Beverages and Intoxicating Liquor

### **Sec. 7-2-1 State Statutes Adopted.**

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

*State Law Reference:* Chapter 125, Wis. Stats.

### **Sec. 7-2-2 Definitions.**

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

### **Sec. 7-2-3 License Required.**

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

### **Sec. 7-2-4 Classes of Licenses.**

- (a) **Retail "Class A" Intoxicating Liquor License.** A retail "Class A" intoxicating liquor license, when issued by the City Administrator 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 Administrator 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) **Reserve "Class B" Licenses.** A Reserve "Class B" license means a license that is not granted or issued by the City on December 1, 1997 and that is counted under Sec. 125.51(4)(br), Wis. Stats., which, if granted or issued, authorizes the sale of intoxicating liquor to be consumed by the glass only on the premises where sold, and also authorizes the sale of intoxicating liquor in the original package or container in multiples not to exceed four (4) liters at any one time, to be consumed off premises, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off the premises.
- (d) **Class "A" Fermented Malt Beverage Retailer's License.** A Class "A" retailer's fermented malt beverage license, when issued by the City Administrator 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.
- (e) **Class "B" Fermented Malt Beverage Retailer's License.**
  - (1) **License.** A Class "B" fermented malt beverage retailer's license, when issued by the City Administrator under the authority of the Common Council, shall entitle the holder thereof to possess, sell or offer for sale, fermented malt beverages, either to be consumed upon the premises where sold or away from such premises. The holder may also sell beverages containing less than one-half (1/2) of a percentum of alcohol by volume, without obtaining a special license to sell such beverages. 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. 125.31, Wis. Stats., Class "B" licenses may not be issued to brewers or fermented malt beverages wholesalers.

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

- (1) **License.** As provided in Sec. 125.26(1) and (6), Wis. Stats., temporary Class "B" fermented malt beverage licenses may be issued to bona fide clubs, to 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 Administrator 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. 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) **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 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. Not more than two (2) such licenses may be issued under this Subsection to any club, county or local fair association, agricultural association, church, lodge, society or veterans' post in any twelve (12) month period.
- (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 Administrator 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. If the application is for a license to be used in a City park, the applicant shall specify the main point of sale facility.

- (h) **Wholesaler's License.** A wholesaler's fermented malt beverage license, when issued by the City Administrator 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.
- (i) **Retail "Class C" Licenses.**
  - (1) In this Subsection, "barroom" means a room that is primarily used for the sale or consumption of alcohol beverages.
  - (2) A "Class C" license authorizes the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold.
  - (3) A "Class C" license may be issued to a person qualified under Sec. 125.04(5), Wis. Stats., for a restaurant in which the sale of alcohol beverages accounts for less than fifty percent (50%) of gross receipts and which does not have a barroom if the City's quota prohibits the City from issuing a "Class B" license to that person. A "Class C" license may not be issued to a foreign corporation, a foreign limited liability company, 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 Administrator 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.
- (h) **Reserve "Class B" Intoxicating Liquor License.** The fee for an initial issuance of a Reserve "Class B" license shall be as prescribed in Section 1-3-1, except that the fee for the initial issuance of a Reserve "Class B" license to a bona fide club or lodge situated and incorporated in the state for at least six (6) years is the fee established in Section 7-2-5(g) for such a club or lodge. The annual fee for renewal of a Reserve "Class B" license is the fee established in Section 7-2-5(g).
- (i) **"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.**

- (1) **Filing of Applications.** 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 Secs. 887.01 to 887.04, Wis. Stats., and shall be filed with the City Administrator pursuant to Subsection (a)(2) below 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.
- (2) **Filing Time Requirements.**
  - a. All license applications, except Temporary Class "B" Fermented Malt Beverage or Wine licenses lasting under four (4) days, must be filed with the City Administrator at least fifteen (15) days prior to the date of the review meeting of the Council.
  - b. All Temporary Class "B" Fermented Malt Beverage or Wine filed with the City Administrator at least five (5) days prior to the date of the review meeting of the Council.

- (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 Administrator 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.** The number of persons and places that may be granted a Retail Class "B" Liquor License under this Section is limited as provided in Sec. 125.51(4), Wis. Stats.

## **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/she has the right to possession of the premises described in the application for the license period, by lease or by deed.
- (d) **Age of Applicant.** Licenses related to alcohol beverages shall only be granted to persons who have attained the legal drinking age.
- (e) **Corporate Restrictions.**
  - (1) No license or permit may be issued to any corporation unless the corporation meets the qualifications under Sec. 125.04(a)1 and 4 and (b), Wis. Stats., unless the agent of the corporation appointed under Sec. 125.04(6) and the officers and directors of the corporation meet the qualifications of Sec. 125.04(a)1 and 3 and (b) and unless the agent of the corporation appointed under Sec. 125.04(6) meets the qualification under Sec. 125.04(a)2. The requirement that the corporation meet the qualifications under Sec. 125.04(a)1 and (b) does not apply if the corporation has terminated its relationship with all of the individuals whose actions directly contributed to the conviction.

- (2) 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 Administrator a statement of transfers of stock within forty-eight (48) hours after such transfer of stock.
- (3) Any license issued to a corporation may be revoked in the manner and under the procedure established in Sec. 125.12, Wis. Stats., when more than fifty percent (50%) of the stock interest, legal or beneficial, in such corporation is held by any person or persons not eligible for a license under this Chapter or under the state law.
- (f) **Sales Tax Qualification.** All applicants for retail licenses shall provide proof, as required by Sec. 77.61(11), Wis. Stats., that they are in good standing for sales tax purposes (i.e., hold a seller's permit) before they may be issued a license.
- (g) **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.
- (i) **Separate License Required for Each Place of Sale.** A separate license shall be required for each stand, place, room or enclosure or for each suite of rooms or enclosures which are in a direct connection or communication where intoxicating liquor or fermented malt beverages are kept, sold or offered for sale; and no license shall be issued to any person,

firm, partnership, corporation or association for the purpose of possession, selling or offering for sale any intoxicating liquors or fermented malt beverages in any dwelling house, flat or residential apartment.

### **Sec. 7-2-8 Investigation.**

The City Administrator 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, and whether the applicant is a proper recipient of a license. These officials shall furnish to the City Administrator 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 Secs. 111.321, 111.322, and 111.335, Wis. Stats.;
  - (2) The financial responsibility of the applicant;
  - (3) The appropriateness of the location and the premises where the licensed business is to be conducted; and
  - (4) Generally, the applicant's fitness for the trust to be reposed.
- (d) An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two (2) offenses which are substantially related to the licensed activity within the five (5) years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the 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 Administrator 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) **Procedure.** 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 Administrator. Transfers shall be authorized only for the purpose described in Subsection (c), below, or in the event that the place or premises so licensed are permanently changed to another location within the City. 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 Administrator 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 reissuance 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) **Change of Agent.** Whenever the agent of a corporate holder of a license is for any reason replaced, the licensee shall give the City Administrator written notice of said replacement,

the reasons therefor 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 Administrator 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 Administrator shall submit to the State of Wisconsin the list of licenses as required by Sec. 125.04(4), Wis. Stats.

### **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", or "Class C" 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 A" or Class "B" licenses shall employ any underage person as defined in the Wisconsin Statutes, but this shall not apply to hotels, drug stores, restaurants, grocery stores, bowling centers, service stations, and other facilities as enumerated in Sec. 125.07(3), Wis. Stats. 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/she possesses an operator's license, or there is a person with an operator's license upon said premises at the time of such service.
- (e) **Health and Sanitation Regulations.** The rules and regulations of the State Board of Health governing sanitation in restaurants shall apply to all "Class B" liquor 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, unless this restriction is waived by majority vote of the Common Council. 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 or permit of the holder thereof may be instituted in the manner prescribed in this Chapter.

*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.
- (3) The licensee or permittee and one (1) employee shall be permitted to check out receipts, check the licensed premises for security and do minor cleaning. Under no circumstances shall the consumption of alcoholic beverages be permitted after closing hours. Commercial janitorial service personnel shall be allowed to enter the licensed premises for the purpose of cleaning during closed hours. The premises shall be well lighted during cleanup. Prior approval must be requested and granted by the Common Council or its designee for any variance of the above exigent circumstances.

- (b) **Class "A" Licenses.** Class "A" licensed premises may remain open for the conduct of their regular business daily between the hours of 8:00 a.m. and 9:00 p.m.

- (c) **Carryout Hours.** Between 9:00 p.m. and 8:00 a.m., no person may sell, remove, carry out or permit to be removed or carried out from any premises having a "Class A" or Class "A" license, fermented malt beverages in original unopened packages, containers or bottles or for consumption away from the premises. Class "B" and "Class B" may offer carryout sales until 12:00 midnight.

## **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 Amery, 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 9-4-1. 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) **Permitted Cups Only.** Intoxicants will be sold only in foam or plastic cups.
- (d) **Fencing.**
- (1) 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.
  - (2) When the event sponsored by the requesting organization is to take place on City park property, the organization shall work closely with City officials in locating and setting

up the fenced area. City officials shall work with the requesting organization in identifying the size of the fenced-in area and the exact location. Such information shall be made part of the temporary Class "B" Permit application.

- (3) When the event sponsored by the requesting organization is to take place on City park property, the organization shall work closely with City officials in locating and setting up the fenced area. The Chief of Police shall work closely with the requesting organization in identifying the size of the fenced in area and the exact location. Such information shall be made part of the temporary Class "B" Permit application. For indoor events, the structure used must have suitable exits and open spaces to accommodate anticipated attendance. It shall contain adequate sanitary facilities to accommodate the size of the group.
- (e) **Underage Persons Prohibited.** No persons under age eighteen (18) shall be allowed to assist in the sale of fermented malt beverages or wine at any point of sale, nor shall underage persons be allowed to loiter or linger in the area of any point of sale.
- (f) **Licensed Operators Requirement.** A licensed operator shall be stationed at all points of sales at all times.
- (g) **Waiver.** The Common Council may waive or modify the requirements of this Section due to the physical characteristics of the licensed site.
- (h) **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 Amery. The applicant may be required to furnish a performance bond prior to being granted the license.
- (i) **Beer and Liquor Not to Be Carried In.** No person shall bring fermented malt beverages or intoxicating liquor in any form of a container with him/her, or in his/her automobile, to any public function within the City of Amery for his/her own consumption, or consumption of others; except only under permission of the Common Council granted for such function. The term public function shall be construed to mean any function that is open to the general public for an admission charge or without admission charge upon any premises in the City.

*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 11, 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/she 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 for up to six (6) months or is used occasionally by a business providing on-premises catering or special event facilities. 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.
- (d) **Point System.**
  - (1) In order to form a basis for suspension, revocation, nonissuance, or nonrenewal, the following demerit system is hereby established to identify habitually troublesome licenseholders who have repeatedly violated state statutes or City ordinances, or the similar ordinances of any other Wisconsin jurisdiction issuing licenses pursuant to Ch. 125, Wis. Stats., for the purpose of recommending suspension, revocation, nonissuance, or nonrenewal of license to the Common Council, and appropriate action thereby. Demerit points shall be assessed against the license record of any license applicant or license issued by the City of Amery irrespective of the location of such violation according to the following schedule:

<b>Violation</b>	<b>Point Value</b>
a. Sale of alcohol beverage without license	100
b. Sale of alcohol beverage to underaged person	50
c. Sale of alcohol beverage to intoxicated person	50
d. Underaged person on premises	50
e. Intoxicated bartender	50
f. After hours consumption	50
g. Refusal to allow police to search premises or refusal to cooperate with lawful police investigation	50
h. Licensee, agent or operator to be on premises at all times	25
i. On premises after closing hours	25
j. No carry-out, restricted to appropriate hours	25

- k. Permit person to leave licensed premises with open alcohol beverage 25
- l. All other violations of Chapter 125, Wis. Stats., the Amery Municipal Code, or corresponding ordinance of any other Wisconsin alcohol beverage licensing jurisdiction 25
- (2) a. The Finance Committee of the Common Council may call before it for purposes of a revocation or suspension hearing all licensees who have accumulated one hundred (100) points in a twelve (12) month period as a result of court imposed convictions or who have had referred to it reports from the City Attorney which, if believed, would result in one hundred (100) demerit points in twelve (12) months.
- b. If the demerit point accumulation, calculated from the date of violation, exceeds one hundred (100) points in a twelve (12) month period, 150 points in a twenty-four (24) month period or two hundred (200) points in a thirty-six (36) month period, the suspension shall be for not less than ten (10) days nor more than ninety (90). If the license(s) is revoked, no other license shall be granted to such licensee or for such premises for a period of twelve (12) months from the date of revocation.
- c. The procedure to be used for suspension or revocation shall be that found in Subsection (c) above.

### **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 4:00 p.m., Monday through Friday) and shall be given on forms prescribed by the Department. After a non-alcohol event notice has been given, the licensee may cancel an event(s) only by giving like notice to the Department in accordance with the provisions of this Subsection. Regardless of the date given, all notices shall expire and be deemed cancelled no later than the date of expiration or revocation of the applicable retail Class "B" or "Class B" license.
- (b) During the period of any non-alcohol event a notice card prescribed by the Police Department shall be posted at all public entrances to the licensed premises notifying the

general public that no alcohol beverages may be consumed, sold or given away on or carried into the licensed premises during the event. Such notice cards shall be made available by the Department to a requesting licensee.

- (c) Once a non-alcohol event has commenced, no alcohol beverages may be consumed, sold or given away on or carried into the licensed premises until the next day following the closing hours of the licensed premises.
- (d) During the period of any non-alcohol event all alcohol beverages shall be stored in a locked portion of the licensed premises in a secure place out of the sight and physical reach of any patron present and shall be under the direct and immediate control and supervision of the licensee or a licensed bartender in the employ of the licensee. All beer taps and automatic dispensers of alcohol beverages ("speed guns") shall be either disconnected, disabled or made inoperable.

### **Sec. 7-2-19 Outdoor Sports and Beer Gardens Activities Regulated.**

- (a) **Purpose.** The Common Council finds that restrictions are necessary for outdoor beer gardens and sports activities at premises holding "Class B" and Class "B" liquor and fermented malt beverages licenses due to concerns arising from noise, density and related problems. This Section enacted pursuant to police power provides a framework for regulatory controls on such outdoor sports and beer garden activities.
- (b) **Approval Required.**
  - (1) **Generally.** No Licensee shall conduct or sponsor any outdoor sports activity or event or beer garden on property forming any part of the real property on which the licensed premises exist without the prior approval of the Common Council.
  - (2) **Permit Required for Beer Garden Outdoor Consumption.** No licensee shall permit the consumption of alcohol beverages on any part of the licensed premises not enclosed within the building, except under a beer garden permit granted by the Common Council. The permits are a privilege in which no rights vest and, therefore, may be revoked by the Common Council at its pleasure at any time or shall otherwise expire on June 30 of each year. No person shall consume or have in his or her possession alcohol beverages on any unenclosed part of a licensed premises which is not described in a valid beer garden permit.
- (c) **Application.** If a Licensee shall conduct or sponsor any outdoor sports activity or event or beer garden on the Licensee's property, the Licensee shall file an application with the City Administrator setting forth the following information:
  - (1) The name, address and telephone number of the person or persons who will be responsible for the actual conduct of the activity or event;
  - (2) The date and duration of time for the proposed activity or event;

- (3) An accurate description of that portion of the Licensee's property proposed to be used;
  - (4) A good faith estimate of the number of users, participants and spectators for the beer garden or proposed activity or event; and
  - (5) The Licensee's plan for maintaining the cleanliness of the licensed area.
- (d) **Time for Filing.** The Licensee shall file the application not less than forty-eight (48) hours before the date of the proposed activity or event. The Common Council may waive the forty-eight (48) hour time limit upon a Licensee's showing of exigent circumstances. The application shall be accompanied by payment of a fee of Twenty Dollars (\$20.00) for review of the application. The applicant may request that an annual permit be issued for the beer garden or outdoor sports activities.
- (e) **Review.** The Common Council shall review the applications in light of the standards of this Section. If the nature of the property or the event requires the imposition of additional regulations, the Common Council may impose these regulations upon an express finding detailing the reasons for additional regulation. All property owners within one hundred fifty (150) feet of the proposed beer garden or outside sports facility shall be notified of the pendency of application for a permit by first class mail.
- (f) **Outdoor Sports Activity Standards.** The following standards shall apply to any outdoor sports activity regulated under this Section:
- (1) Approval of an application shall not act to permit outdoor consumption of alcohol beverages on the property beyond the area specifically licensed.
  - (2) If the estimated number of participants and spectators shall bring the number of persons on the property above the number for which licensed premises' restroom facilities are rated adequate, the Licensee shall provide a number of portable temporary restrooms sufficient to serve the estimated number of persons.
  - (3) The Common Council shall not grant approval to any applicant whose property on which the activity or event is proposed is adjacent to any property zoned residential or on which a residential use exists as a nonconforming use, or within fifty (50) feet of any property zoned residential or on which a residential use exists as a nonconforming use. Fencing may be required.
  - (4) The applicant shall provide parking adequate for the proposed activity or event, whether on-site or through agreements with property owners shown to the Common Council's satisfaction to permit their property to be used for parking for the proposed activity or event.
  - (5) The applicant shall show the Common Council plans adequate to provide reasonable access to participants and spectators for the event, and to limit access for all other persons.
  - (6) The Licensee shall clean up all garbage and debris relating to the activity or event at least once per twenty-four (24) hours during the activity or event.
  - (7) The Licensee shall not permit the noise level of the sports activity or event to exceed seventy-five (75) dB, measured at any border of the Licensee's real property.

- (g) **Limitations on Issuance of Beer Garden Permits.**
- (1) No permit shall be issued for a beer garden if any part of the beer garden is within one hundred (100) feet of a structure used for residential purposes, except residential uses located in the same structure as the licensed premises.
  - (2) No permit shall be issued for a beer garden if the beer garden area is greater than fifty percent (50%) of the gross floor area of the adjoining licensed premises. Each applicant for a beer garden permit shall accurately describe the area intended for use as a beer garden and shall indicate the nature of fencing or other measures intended to provide control over the operation of the beer garden.
  - (3) Every beer garden shall be completely enclosed with a fence or wall not less than six (6) feet in height.
  - (4) No amplified sound or music is permitted outside the enclosed (building) premises. Dancing or amplified sound or music is not permitted in the beer garden.
  - (5) There shall be a licensed operator with the beer garden at all times the beer garden is in operation.
  - (6) The only entrance to the outdoor portion of the licensed premises shall be solely through the entrance to the principal tavern, restaurant or other described portion of the licensed premises located in a building or structure.
- (h) **State Statutes Enforced Within Beer Garden.** Every permittee under this Section shall comply with and enforce all provisions of Chapter 125, Wis. Stats., applicable to Class "B" licensed premises, except insofar as such provisions are clearly inapplicable. Violation of the provisions of Chapter 125, Wis. Stats., shall be grounds for immediate revocation of the outdoor sports activity or beer garden permit by the Common Council.
- (i) **Violations.** Failure of the Licensee to comply with any of the provisions of this Section shall be grounds for suspension, nonrenewal or revocation of the Licensee's alcohol beverage license or licenses.

## **Sec. 7-2-20    Nude Dancing in Licensed Establishments Prohibited.**

- (a) **Authority.**
- (1) The Common Council of the City of Amery has explicit authority under Sec. 125.10(1), Wis. Stats., to adopt regulations governing the sale of alcohol beverages which are in addition to those set forth in Ch. 125, Wis. Stats.; and
  - (2) The Common Council has authority under its general police powers set forth in Sec. 62.11(5), Wis. Stats., to act for the good order of the municipality and for the health, safety and welfare of the public; and may carry out its powers by regulation and suppression; and
  - (3) The Common Council recognizes it lacks authority to regulate obscenity, and does not intend by adopting this Section to regulate obscenity, since nudity in and of itself is

- not obscene, it declares its intent to enact an ordinance addressing the secondary effects of live, totally nude, non-obscene, erotic dancing in bars and taverns; and
- (4) Bars and taverns featuring live totally nude, non-obscene, erotic dancing have in other communities tended to further the increase of criminal and other offensive activity, to disrupt the peace and order of the communities, to depreciate the value of real property, to harm the economic welfare of the communities and to negatively affect the quality of life of the communities; and such secondary effects are detrimental to the public health, safety and general welfare of citizens; and
  - (5) The Common Council recognizes the U.S. Supreme Court has held that nude dancing is expressive conduct within the outer perimeters of the First Amendment to the United States Constitution and therefore entitled to some limited protection under the First Amendment, and the governing body further recognizes that freedom of speech is among our most precious and highly protected rights, and wishes to act consistently with full protection of those rights; and
  - (6) However, the Common Council is aware, based on the experiences of other communities, that bars and taverns in which live, totally nude, non-obscene, erotic dancing occurs may and do generate secondary effects which the governing body believes are detrimental to the public health, safety and welfare of the citizens of the City of Amery; and
  - (7) Among these secondary effects are:
    - a. The potential increase in prostitution and other sex-related offenses, as well as other crimes and offenses;
    - b. The potential depreciation of property values in neighborhoods where bars and taverns featuring nude dancing exist;
    - c. Health risks associated with the spread of sexually transmitted diseases; and
    - d. The potential for infiltration by organized crime for the purpose of unlawful conduct; and
  - (8) The Common Council desires to minimize, prevent and control these adverse effects and thereby protect the health, safety and general welfare of the citizens of the City of Amery; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods; and deter the spread of urban blight; and
  - (9) The Common Council has determined that enactment of an ordinance prohibiting live, totally nude, non-obscene, erotic dancing in bars and taverns licensed to serve alcohol beverages promotes the goal of minimizing, preventing and controlling the negative secondary effects associated with such activity.
- (b) **Nude Dancing in Licensed Establishments Prohibited.** It is unlawful for any person to perform or engage in, or for any licensee or manager or agent of the licensee to permit any person, employee, entertainer or patron to perform or engage in any live act, demonstration, dance or exhibition on the premises of a licensed establishment which:

- (1) Shows his/her genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering; or
  - (2) Shows any portion of the female breast below a point immediately above the top of the areola; or
  - (3) Shows the covered male genitals in a discernably turgid state.
- (c) **Exemptions.** The provisions of this Section does not apply to the following licensed establishments; theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.
- (d) **Definitions.** For purposes of this Section, the term "licensed establishment" means any establishment licensed by the Common Council of the City of Amery to sell alcohol beverages pursuant to Ch. 125, Wis. Stats. The term "licensee" means the holder of a retail "Class A", "Class B", Class "B", Class "A", or "Class C" licensee granted by the Common Council of the City of Amery pursuant to Ch. 125, Wis. Stats.
- (e) **Penalties.** Any person, partnership or corporation who violates any of the provisions of this Section shall be subject to a forfeiture pursuant to Section 1-1-7. A separate offense and violation shall be deemed committed on each day on which a violation occurs or continues. In addition, violation of this Section constitutes sufficient grounds for suspending, revoking or non-renewing an alcohol beverage license under Sec. 125.12, Wis. Stats.

**Sec. 7-2-21 through Sec. 7-2-29      Reserved for Future Use.**



## Article B: Operator's License

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

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

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

### **Sec. 7-2-31 Procedure Upon Application.**

- (a) The 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 Administrator only to persons eighteen (18) years of age or older. Operator's licenses shall be operative only within the limits of the City.
- (b) When directed by the Common Council, all applications may be 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. If so directed by the Common Council, the Police Department shall conduct an investigation of

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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 a minimum of forty-eight (48) hours prior to the Council's meeting 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 License; Temporary License.**

- (a) **Fee.** The fee for a standard operator's license shall be as prescribed in Section 1-3-1. The fee for a provisional operator's license shall be as prescribed in Section 1-3-1.
- (b) **Provisional License.** The City Administrator 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 Administrator 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/her 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 City or who has had his/her operator's license revoked or suspended within the preceding twelve (12) months. The City Administrator shall provide an appropriate application form to be completed in full by the applicant. The investigation procedures of Section 7-2-31 shall be followed. The City Administrator 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 an operators license. If approved by the Council, the operator's license is issued.

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

- (a) After Common Council approval of an application for an operator's license, the City Administrator 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, the City Administrator 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 review 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 denies the application, the City Administrator shall notify the applicant in writing of the reasons therefore. An applicant who is denied any license upon reconsideration of the matter, may apply to Circuit Court pursuant to Sec. 125.12(2)(d), Wis. Stats., for review.
- (c) (1) Consideration for the granting or denial of a license will be based on:
  - a. Arrest and conviction record of the applicant, subject to the limitations imposed by Secs. 111.321, 111.322, and 111.335, Wis. Stats.;
  - b. The financial responsibility of the applicant; 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

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vocational, technical and adult education or a comparable training course that is approved by the educational approval board, or unless the applicant fulfills one of the following requirements:

- (1) The person is renewing an operator's license.
  - (2) Within the past two (2) years, the person held a Class "A", Class "B", "Class A", "Class B", or "Class C" license or permit or a manager's or operator's license.
  - (3) Within the past two (2) years, the person has completed such a training course.
- (b) The City Administrator 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/her possession, or carry a license card.

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

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

**Sec. 7-2-38 through Sec. 7-2-39 Reserved for Future Use.**

## Article C: Penalties

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### **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 Amery, 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 Amery, 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 Amery.
- (c) Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes.



## Title 7 ► Chapter 3

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# Cigarette Licenses

**7-3-1** Cigarette License

### **Sec. 7-3-1 Cigarette Licenses.**

- (a) **License Required.** No person, firm or corporation shall, in any manner, directly or indirectly, upon any premises, or by any device, sell, exchange, barter, dispose of or give away, or keep for sale, any cigarette, cigarette paper or cigarette wrappers, or any substitute therefor, without first obtaining a license as hereinafter provided.
- (b) **Application for License; Fee.** Every person, firm or corporation desiring a license under this Section shall file with the City Administrator a written application therefor, stating the name of the person and the place for which such license is desired. Each license shall be filed by the City Administrator 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 Administrator a license fee as prescribed in Section 1-3-1.
- (c) **Issuance and Term of License.** Licenses for the sale, exchange, barter, disposition of, or giving away or keeping for sale of cigarette paper or cigarette wrappers or any substitute therefor shall be issued by the City Administrator. 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.

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



## Title 7 ► Chapter 4

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# Transient Merchants

<b>7-4-1</b>	Registration Required
<b>7-4-2</b>	Definitions
<b>7-4-3</b>	Exemptions
<b>7-4-4</b>	Registration
<b>7-4-5</b>	Investigation
<b>7-4-6</b>	Appeal
<b>7-4-7</b>	Regulation of Transient Merchants; Sales from Private Property
<b>7-4-8</b>	Records
<b>7-4-9</b>	Revocation of Registration

### **Sec. 7-4-1 Registration Required.**

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

*State law Reference:* Sec. 66.0423, Wis. Stats.

### **Sec. 7-4-2 Definitions.**

In this Chapter:

- (a) **Transient Merchant** means any individual who engages in the retail sale of merchandise at any place in this state temporarily, and who does not intend to become and does not become a permanent merchant of such place. For purposes of this Section, sale of merchandise includes a sale in which the personal services rendered upon or in connection with the merchandise constitutes the greatest part of value for the price received, but does not include a farm auction sale conducted by or for a resident farmer of personal property used on the farm, or the sale of produce or other perishable products at retail or wholesale by a resident of this state. Also for purposes of this Chapter, "transient merchant" shall mean solicitors.
- (b) **Permanent Merchant** means any person who, for at least one (1) year prior to the consideration of the application of this Chapter to said merchant:

- (1) Has continuously operated an established place of business in the local trade area among the communities bordering the place of sale; or
- (2) Has continuously resided in the local trade area among the communities bordering the place of sale and now does business from his/her residence.
- (c) **Merchandise** shall include personal property of any kind, and shall include merchandise, goods, or materials provided incidental to services offered or sold. The sale of merchandise includes donations required by the seller for the retention of merchandise by a donor or prospective customer.
- (d) **Charitable Organization** shall include any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such.
- (e) **Clerk** shall mean the City of Amery Administrator or his/her Deputy.
- (f) **Person** shall mean 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.
- (g) **Solicitor.** Any person engaged in direct solicitation who:
  - (1) Seeks donations of money or other contributions of items of value for an organization or cause; or
  - (2) Sells items on behalf of an organization or cause but asks for a contribution of greater value than the item being sold.

### **Sec. 7-4-3 Exemptions.**

The following shall be exempt from provisions of this Chapter:

- (a) **Regular Delivery Routes.** Any person delivering newspapers, fuel, dairy products, food products or bakery goods to regular customers on established routes;
- (b) **Wholesalers.** Any person selling merchandise at wholesale to dealers in such merchandise;
- (c) **Agricultural Products.** Any person selling agricultural products which the person has grown, provided the provisions of Section 7-4-7(c) are followed.
- (d) **Deliveries by Permanent Merchants.** Any permanent merchant or employee thereof who takes orders at the home of the buyer for merchandise regularly offered for sale by such merchant within this county and who delivers such merchandise in their regular course of business;
- (e) **Requested Home Visits.** Any person who has an established place of business where the merchandise being sold 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;
- (f) **Prior Sales Transactions.** Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer;

- (g) **Services Not Offering Merchandise.** Any person selling or offering for sale a service unconnected with the sale or offering for sale of merchandise;
- (h) **Auctions; Sales Authorized by Statute.** Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law;
- (i) **Charitable Organizations; Limited Exemption.** Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization, provided that there is submitted to the City Administrator proof that such charitable organization is registered under Sec. 440.41, Wis. Stats., and that such solicitors comply with the registration and regulatory provisions of 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.
- (j) **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, provided that there is submitted to the City Administrator proof that such person has leased for at least one (1) year, or purchased, the premises from which he/she is conducting business, or proof that such person has conducted such business in this City for at least one (1) year prior to the date complaint was made.
- (k) **Persons Licensed by Examining Boards.** Any individual licensed by an examining board as defined in Sec. 15.01(7), Wis. Stats.
- (l) **City Authorized Events.** Any transient merchants doing business at special events specifically authorized by the Common Council.
- (m) **Local Civic Activities.** Any person soliciting donations or selling merchandise associated with a local school, civic, charitable or community function. For purposes of this Chapter, "local" shall be an activity sponsored by a school or charitable/civic organization located within ten (10) miles of the City of Amery.
- (n) **Resident Minors.** Minors under the age of eighteen (18) who are students at the Amery School District.

## **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/her 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 offense 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 proof of identity as may be reasonably required;
  - (2) A state certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighing and measuring devices approved by state authorities;
  - (3) A state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than ninety (90) days prior to the date the application for license is made.
- (c) **Registration Fee.**
- (1) At the time of filing applications, a registration 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 and registration. There shall be a forty-eight (48) hour waiting period to allow the City an opportunity to investigate or verify statements made in said application, before the applicant can be registered as a transient merchant. Every member of a group must file a separate registration form. However, representatives/solicitors of charitable organizations, as defined by Section 7-4-3(i) and local school, civic or community organizations, as defined by Section 7-4-3(m), shall not be required to pay such fee. The primary applicant shall pay a registration fee as prescribed in Section 1-3-1 plus a CIB investigation fee; each assistant under the application shall also be required to pay the CIB fee.
  - (2) The applicant shall sign a statement appointing the City Administrator his/her agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant, in the event the applicant cannot, after reasonable effort, be served personally.

- (3) Upon payment of said fees, signing of said statement, and the expiration of the forty-eight (48) hour waiting period, the City Administrator shall register the applicant as a transient merchant and date the entry. Said registration shall be valid for a period of one (1) year from the date of entry, subject to subsequent refusal as provided in Sec. 7-4-5(b) below.
- (d) **Solicitors.** Solicitors of funds or donations for charitable or other organizations shall comply with all disclosure and registration requirements above, but shall be exempt from the registration fee.

*Cross-Reference:* Section 6-2-21, Special Event Street Vending Permit.

### **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 three (3) days from the time of referral.
- (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 Secs. 68.07 through 68.16, Wis. Stats.

### **Sec. 7-4-7 Regulation of Transient Merchants; Sales from Private Property.**

(a) **Prohibited Practices.**

- (1) A transient merchant shall be prohibited from: calling at any dwelling or other place between the hours of 9:00 p.m. and 8:00 a.m. except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers,"

"No Solicitors" or words of similar meaning; calling at the rear door of any dwelling place; or remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.

- (2) A transient merchant shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any merchandise offered for sale, the purpose of his/her visit, his/her identity or the identity of the organization he/she represents. A charitable organization transient merchant shall specifically disclose what portion of the sale price of merchandise being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the merchandise.
  - (3) In addition to satisfying the registration requirements of this Chapter, no transient merchant shall conduct sales activities from a public right-of-way, park or other City-owned area without specific authorization from the Common Council. No transient merchant shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.
  - (4) No transient merchant shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a one hundred (100) foot radius of the source.
  - (5) No transient merchant shall allow rubbish or litter to accumulate in or around the area in which he/she is conducting business.
  - (6) Sales activities and/or displays shall not be located within public right-of-ways for the protection of public safety.
- (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/her name, the name of the company or organization he/she is affiliated with, if any, display his/her City registration, and the identity of merchandise or services he/she offers to sell.
  - (2) If any sale of merchandise is made by a transient merchant or any sales order for the later delivery of merchandise is taken by the seller, the buyer shall have the right to cancel said transaction if it involves the extension of credit or is a cash transaction of more than Twenty-five Dollars (\$25.00), in accordance with the procedure as set forth in Sec. 423.203, Wis. Stats.; the seller shall give the buyer two (2) copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of Sections 423.203(1)(a)(b) and (c), (2) and (3), Wis. Stats.
  - (3) If the transient merchant takes a sales order for the later delivery of merchandise, he/she shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance, whether full, partial or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date and whether a guarantee or warranty is provided and, if so, the terms thereof.

**Sec. 7-4-8 Records.**

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

**Sec. 7-4-9 Revocation of Registration.**

- (c) Registration may be revoked by the Common Council after notice and hearing if the registrant made any material omission or materially inaccurate statement in the application for registration, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales, violated any provision of this Chapter or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling.
- (d) Written notice of the hearing shall be served personally or pursuant to Section 7-4-4(c) on the registrant at least seventy-two (72) hours prior to the time set for the hearing; such notice contain the time and place of hearing and a statement of the acts upon which the hearing will be based.



## Title 7 ► Chapter 5

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# Mobile Homes

**7-5-1** State Statutes Adopted

### **Sec. 7-5-1 State Statutes Adopted.**

- (a) There is hereby imposed on each owner of a nonexempt, occupied mobile home in the City of Amery a monthly parking fee as determined in accordance with Sec. 66.0435, Wis. Stats., 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 Administrator 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 Administrator 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 Administrator 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 Administrator in accordance with Sec. 66.0435, Wis. Stats.
- (2) Occupants or owners of non-exempt mobile homes parked outside of a mobile home park shall remit such fees directly to the City Administrator 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 Administrator as provided in Subsection (a).
- (b) 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 Administrator. 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 Administrator 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 Amery.

*State Law Reference:* Sec. 66.0435, Wis. Stats.



## Title 7 ► Chapter 6

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# Regulation and Licensing of Fireworks

<b>7-6-1</b>	Purpose
<b>7-6-2</b>	Definitions
<b>7-6-3</b>	Possession, Sale and Use of Fireworks Limited
<b>7-6-4</b>	Sale of Fireworks Limited
<b>7-6-5</b>	User's Permits for Possession and Use of Fireworks
<b>7-6-6</b>	User Permits; Limitations
<b>7-6-7</b>	Storage and Handling
<b>7-6-8</b>	Seller's Permits
<b>7-6-9</b>	Seller's Permit Fee; Conditions; Term
<b>7-6-10</b>	Violation — Penalty

### **Sec. 7-6-1 Purpose.**

This Chapter shall regulate the possession, sale and use of fireworks within the City limits. It shall constitute a local regulation adopted pursuant to Sec. 167.10(5), Wis. Stats.

### **Sec. 7-6-2 Definitions.**

The following definitions shall apply to application of this Chapter:

- (a) **City or City Limits.** All land located within the corporate limits of the City of Amery.
- (b) **Dwelling.** A place of residence for human inhabitants and shall include all single family and multiple family residences and all other structures used for human habitation.
- (c) **Fire Chief.** The duly appointed Fire Chief of the City of Amery.
- (d) **Fireworks.** 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 for 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 that is designed to produce audible or visible effects or to produce audible and visible effects;
  - (10) A device designed to spray out paper confetti or streamers and which contains less than one-quarter (1/4) grain of explosive mixture;
  - (11) A fuseless device that is designed to produce audible or visible effects or audible and visible effects and that contains less than one-quarter (1/4) gram of explosive mixture;
  - (12) A device that emits smoke with no external flame and does not leave the ground;
  - (13) A cylindrical fountain that consists of one (1) or more tubes and that is classified by the federal department of transportation as a division 1.4 explosive, as defined in 49 C.F.R. 173.50;
  - (14) A cone fountain that is classified by the federal department of transportation as a division 1.4 explosive, as defined in 49 C.F.R. 173.50.
- (e) **Person.** Any natural person or unincorporated or incorporated corporation, partnership or other association. Persons who otherwise are referred to as sellers under this Chapter shall include, for purposes of Section 7-6-8(b) and (d), those sellers who are not required to obtain seller's permits. It shall not include a natural person under the age of eighteen (18) years, otherwise referred to herein as a "minor".
- (f) **Possess.** To have in one's possession, to own, hold on consignment or to otherwise to be physically and/or legally in control of fireworks.
- (g) **Use.** Any of the permitted purposes for fireworks set forth at Sec. 167.10(3)(b)2. to 6., Wis. Stats., together with all other types of use including but not limited to explosions, emission of sparks or combustion.

### **Sec. 7-6-3 Possession, Sale and Use of Fireworks Limited.**

Except as otherwise allowed by this Chapter, no person may possess, sell or use fireworks in the City.

### **Sec. 7-6-4 Sale of Fireworks Limited.**

No person shall sell or possess with intent to sell fireworks, except:

- (a) To a person holding a permit under Section 7-6-5, below or a similar municipal permit issued in accord with Sec. 167.10(3)(a) and (c), Wis. Stats.;

- (b) To a city a village or town; or
- (c) For a purpose specified at Sec. 167.10(3)(b)2. to 6., Wis. Stats.
- (d) Under no circumstances shall fireworks including those devices specified at Section 7-6-2(d)(6), (7), (9), (10), (11), (13) and (14) to be sold to minors.
- (e) To out-of-state purchasers in accord with Section 167.10(4), Wis. Stats.

### **Sec. 7-6-5      User's Permits for Possession and Use of Fireworks.**

- (a) No person shall possess with the intent to use or use fireworks in the City unless prior to the purchase or other procurement of fireworks a user's permit shall have been issued to such person by the Mayor or his/her designee. Sellers of fireworks shall obtain a fireworks seller's permit pursuant to Sections 7-6-8 and 7-6-9. Only the following persons shall be eligible for issuance of a possession/use permit:
  - (1) A public authority;
  - (2) A fair association;
  - (3) An amusement park;
  - (4) A park board;
  - (5) A civic organization;
  - (6) A group of resident or nonresident individuals;
  - (7) An agricultural producer for the protection of crops from predatory birds or animals.
- (b)
  - (1) Persons procuring a possession permit from an authorized seller of fireworks may possess fireworks in the City but not for the purposes of use in the City. For purposes of this paragraph the City shall designate licensed sellers as agents for the sale of possession permits.
  - (2) In order to obtain a possession permit a person seeking to purchase fireworks from a seller regulated under this Chapter shall first obtain a permit under Sec. 167.10(3), Wis. Stats., or pursuant to this municipal ordinance adopted in accord with Sec. 167.10, Wis. Stats., a copy of said permit must be presented to the seller at the time of purchase. The seller shall, in turn, provide copies of all possession permits issued together with copies of the underlying municipal permits to the City Administrator within twenty-four (24) hours of each such sale, exclusive of Saturdays, Sundays or legal holidays.
- (c) The charge for each possession permit and user's permit shall be as prescribed in Section 1-3-1.
- (d) Prior to issuance of such a user's permit the City shall in accord with Sec. 167.10(3)(e), Wis. Stats., require the filing of an indemnity bond or policy in such amount as the City deems to be adequate under the facts and circumstances of each application. The Mayor or designated official 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 Administrator.

- (e) Permits shall be on forms approved of by the Common Council. All of the information required under Sec. 167.10(3)(f), Wis. Stats., shall be specified on user's permits.

### **Sec. 7-6-6 User's Permits; Limitations.**

- (a) A copy of each user's permit issued shall be given to the Fire Chief at least two (2) days prior to the date of authorized use.
- (b) No user's permits shall be issued to minors.

### **Sec. 7-6-7 Storage and Handling.**

No person possessing fireworks with the intent to sell in the City may store or handle fireworks in premises which are not equipped with fire extinguishers approved by the Fire Chief or his/her designee. In addition, the following criteria shall govern storage and handling:

- (a) No person may smoke where fireworks are stored or handled.
- (b) Prior to any person storing fireworks in the City, the Fire Chief shall be notified.
- (c) No fireworks shall be stored within one hundred (100) feet of a dwelling.

### **Sec. 7-6-8 Seller's Permits.**

- (a) No person shall sell fireworks in the City without a permit issued for such purpose by the Mayor or by his/her designee. Applications shall be filed with the City a minimum of fifteen (15) days to the requested commencement date of fireworks sales. Proof of public liability insurance shall be filed with the City. Prior to the Mayor making a decision regarding the application, the Common Council shall be asked to make an advisory recommendation.
- (b) In addition, no person shall sell fireworks including but not limited to those devices specified at Section 7-6-2 (d)(6), (7), (9), (10), (11), (13) and (14) to minors.
- (c) No fireworks, as that term is generally described at Section 7-6-2(d), which fall outside of the federal classification of "Class C" common fireworks and/or those specified at Section 7-6-2(d)(6), (7), (9), (10), (11), (13) and (14) may be possessed with the intent to sell or be sold in the City.

- (d) No seller's permit shall be required if a person limits his/her sale of fireworks to those devices specified at Section 7-6-2(d)(6), (7), (9), (10), (11), (13) and (14). Nonetheless, each such seller shall be subject to and shall obey Subsection (b), above.

### **Sec. 7-6-9 Seller's Permit Fee; Conditions; Term.**

- (a) The annual fee for a permit to sell fireworks under Section 7-6-8 is the sum as prescribed in Section 1-3-1 per calendar year. The entire permit fee shall be charged for every license for the whole or fraction of a year, and shall be paid when application is made for such permit.
- (b) The City Administrator shall provide appropriate permit forms, as approved by the Fire Chief and shall maintain adequate record of the issuance thereof.
- (c) The applicant shall particularly describe the location where the permit will be used and shall at all times publicly and continuously display such permit at such location. Such permit may be transferred to a new location upon payment of a transfer fee fee as prescribed in Section 1-3-1.
- (d) All sellers shall comply with all local ordinances and federal and state regulations and statutes regarding the sale, transport or storage of flammable, explosive or hazardous materials.

### **Sec. 7-6-10 Violation — Penalty.**

- (a) Any person violating any of the provisions of this Chapter shall be subject to a forfeiture as prescribed by Section 1-1-7, together with the costs of prosecution.
- (b) Pursuant to Sec. 167.10(8)(b), Wis. Stats., fireworks stored, handled, sold, possessed or used by a person in violation of this Chapter may be seized by the Police Department, held as evidence and destroyed after conviction.
- (c) Upon request of the Police Department, the City Attorney may seek injunctive relief against present or future violations of this Chapter.



## Title 7 ► Chapter 7

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# 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 of Amery are primarily for the use of the public in the ordinary way. However, under proper circumstances, the Common Council may grant a permit for street use, subject to reasonable municipal regulation and control, including when 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 Administrator and shall be filed with the City Administrator. 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 Common Council 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. The Council 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, except for specific civic, special, or community events authorized by the Common Council.
  - (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 forty-eight (48) hours.
  - (6) The proposed use could equally be better 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 Council 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.** There shall be a fee for a Street Use Permit as prescribed in Section 1-3-1.
- (f) **Special Community Event Exception.** The requirements of Subsections (d) and (g) are not applicable to certain community events recognized by the Common Council as falling within this exception. Open consumption and/or sales of alcoholic beverages may be allowed for these limited community events.
- (g) **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 school, 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 sixty percent (60%) 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 Amery, 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 Amery 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 Amery 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.

- (h) **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 Amery. The applicant may be required to furnish a performance bond prior to being granted the permit.
- (i) **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 statement for cleaning work shall constitute grounds for refusal to grant the permit holder any other permit in the future.

- (j) **Termination of a Street Use Permit.** A Street Use Permit for an event in progress may be terminated by the Mayor or Chief of Police 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 Amery. The Mayor or Chief of Police have 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.

## Title 7 ► Chapter 8

# Regulation of Nonmetallic Mining

<b>7-8-1</b>	Statutory Provisions Adopted
<b>7-8-2</b>	Definitions
<b>7-8-3</b>	Existing Nonmetallic Mining Operations
<b>7-8-4</b>	Exempt Activities
<b>7-8-5</b>	Permit Required for Nonmetallic Mining
<b>7-8-6</b>	Permit Revocation
<b>7-8-7</b>	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.**

As used in this Chapter:

- (a) **Environmental Pollution** has the meaning specified under Sec. 144.01(3), Wis. Stats.
- (b) **Nonmetallic Mining or Nonmetallic Mining Operation** means 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** means 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** means 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** means 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 under this nonmetallic mining reclamation ordinance whether individually, jointly or through subsidiaries, agents, employees, contractors or subcontractors.
- (f) **Reclamation** means 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** means 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/she obtains a nonmetallic mining permit from the Common Council. The fee for such permit shall be as prescribed in Section 1-3-1, 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 Administrator. All applications for permits hereunder shall be signed by the applicant and filed with the City Administrator at least sixty (60) days prior to the licensing period. The City Administrator 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 all 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/her 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 therefor 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 Administrator. All applications for permits hereunder shall be signed by the applicant and filed with the

City Administrator at least sixty (60) days prior to the licensing period. The City Administrator shall immediately refer all applications for permits hereunder to the City Engineer. The City Administrator shall issue a permit hereunder only after first receiving the recommendation of the City Engineer, 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 City Engineer.

- (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 City Engineer deems pertinent to the proposed operation. Such Plan of Reorganization shall be approved by the City Engineer.
  - (5) **Insurance.** Each application for a blasting permit shall be accompanied by a Certificate of Insurance identifying the City of Amery 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:  
  
$$\text{Energy ratio} = 0.5 = 10.823 f^2 A^2$$
 where: f = frequency in cycles per second,  
A = amplitude or displacement in inches  
  
$$\text{Energy ratio} = .274 V^2$$
 (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 City Engineer, 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 City Engineer, shall measure air blast. This verification shall be performed by a seismological engineering firm acceptable to the City or by the City Engineer. 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 Administrator. The original copy of this blasting log shall be filed with the City Administrator 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 below. No permit fee shall be prorated. All permits issued hereunder shall expire on December 31 following the date of issue:
- (1) Quarries using blasting to supply buildings and/or ornamental stone: As prescribed in Section 1-3-1 per blasting period.
  - (2) Gravel crushing operations using portable or fixed crushing equipment less than thirty (30) days per year: As prescribed in Section 1-3-1 per year.
- (g) **Penalty.** Any person who shall violate any of the provisions of this Section shall be subject to a penalty as provided in Section 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/her or the reasons proposed for nonrenewal or revocation and shall have an opportunity to be heard before the Common Council.



## Title 7 ► Chapter 9

# Regulation and Licensing of Amusement Arcades

<b>7-9-1</b>	Definitions
<b>7-9-2</b>	Amusement Arcade License
<b>7-9-3</b>	Hours of Operation for Amusement Arcades
<b>7-9-4</b>	General Requirements for Amusement Arcades
<b>7-9-5</b>	License Revocation

### Sec. 7-9-1 Definitions.

The following definitions shall be applicable in this Chapter:

- (a) **Amusement Arcade.** Any premises operated by any organization, whether incorporated or not, which is the owner, lessee, or occupant of a building whose primary purpose or object of its existence or operation is that of providing use of "amusement devices" to the public at retail, and/or any premises operated by any organization, whether incorporated or not, which is the owner, lessee or occupant of a building, the majority of whose gross receipts are derived from the providing of use of "amusement devices" to the public at retail.
- (b) **Amusement Device.** Any table, platform, mechanical device, or apparatus operated or intended to be operated for amusement, pleasure, test of skill, competition, or sport, the use or operation of which is conditioned upon payment or consideration either by insertion of coin or token in a slot or otherwise. Such amusement device shall include, but not be limited to, devices commonly known as baseball, football, basketball, hockey, pinball, shuffleboard, ray guns, bowling games, bumper games, skiball, electronic video games, and shall also include billiard tables and pool tables (whether coin operated or not). Such definition does not include a bowling alley, juke box or other coin operated music machine or a mechanical children's amusement riding device.

### Sec. 7-9-2 Amusement Arcade License.

- (a) **License Required.** No person, firm, or corporation shall operate or keep an amusement parlor or arcade, as defined herein, without having obtained and posted on the premises, in

plain view, a license to operate such parlor. Application shall be made to the City Administrator on the form provided by such office, accompanied by an application fee as prescribed in Section 1-3-1, which shall cover the cost of processing the application and shall be non-refundable. The application shall set forth the following information:

- (1) The name and address of the applicant, or, if a partnership, the name and addresses of all the partners, or, if a corporation, the names and addresses of the principal officers and registered agent thereof, and the name and address of the person who will supervise the game room.
  - (2) The name and addresses of the owners of the amusement devices to be located on the licensed premises, if such owners are different from that of the applicant. If the owners of the amusement devices is a partnership, the names and addresses of all the partners, or if a corporation, the names and addresses of the principal officers and registered agent thereof.
  - (3) A building plan of the premises to be licensed specifically describing and otherwise showing all dimensions, indicating the intended division of floor space, exits and entrances, the areas to be used for amusement devices, and the common aisles.
  - (4) A site plan of the premises to be licensed which shall include the proposed landscaping for the subject premises, and all the improvements, parking and driveway areas, and landscaping located on property adjacent to and within twenty (20) feet of the property lines of the premises to be licensed.
  - (5) If the applicant operates other game rooms in other areas, the names and addresses of such other licensed establishments.
  - (6) Such application shall also contain such additional information as the City deems necessary to assist it in determining the qualifications of the applicant for such license.
- (b) **Public Hearing.** The application shall be forwarded to the Common Council which shall hold a public hearing prior to the granting or denial of any amusement arcade license. In reviewing each application, the Common Council shall find:
- (1) That the establishment, maintenance, or operation of an amusement arcade at the location requested will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.
  - (2) That the proposed amusement arcade will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
  - (3) That the establishment of the amusement arcade will not impede the normal orderly development and improvement of the surrounding property for uses permitted in the district.
  - (4) That adequate measures have been or will be taken to maintain good order surrounding the location thereof.
- (c) **Issuance of License; Term.** The City Administrator shall issue a license upon approval of the application by the Common Council, upon the payment by the applicant of an annual

license fee as prescribed in Section 1-3-1. All licenses issued herein shall be for one (1) year ending on the 30th day of June and shall not be transferable.

### **Sec. 7-9-3 Hours of Operation for Amusement Arcades.**

- (a) No premises for which an amusement arcade license has been issued shall be permitted to remain open for the offering of electronic amusement devices to the public at retail between the hours of 10:00 p.m. and 10:00 a.m., except on Friday and Saturday when the closing hours shall be between 12:00 midnight and 10:00 a.m.
- (b) No premises for which an amusement arcade license has been issued and which is less than one thousand (1,000) feet from the main entrance of any established public or parochial school, shall be permitted to remain open for the offering of amusement devices to the public at retail between the hours of 10:00 p.m. and 3:00 p.m. on any day in which such school is in regular session.
- (c) For the purpose of this Section, the term "public school or parochial school" shall be any institution providing learning facilities for grades kindergarten through eight (K-8). The one thousand (1,000) foot distance shall be measured by the shortest route along the highway from the closest point of the main entrance of such school to the main entrance of such premises.

### **Sec. 7-9-4 General Requirements for Amusement Arcades.**

The following general requirements shall apply to all amusement arcades licensed in accordance with this Chapter:

- (a) All amusement arcades shall have an adult supervisor on the premises at all times in which the game room is open to the public.
- (b) Every amusement arcade shall provide an adequate area and number of bicycle racks for the orderly parking of bicycles, which area shall be separate from a required vehicle parking stall and shall be so located as to not occupy any portion of a public sidewalk or to otherwise obstruct pedestrian passage to and from the premises.
- (c) Game rooms licensed herein shall comply with all other building, fire code, and applicable City laws and regulations.

### **Sec. 7-9-5 License Revocation.**

Licenses may be revoked by the Common Council after a hearing, in the event an amusement arcade's location or operation fails to conform to standards provided in this Chapter, or violates any other provision of this Code of Ordinances.



## Title 7 ► Chapter 10

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# Flea Markets and Garage Sales

- 7-10-1** Regulation of Flea Markets  
**7-10-2** Garage Sales

### Sec. 7-10-1 Regulation of Flea Markets.

- (a) **Definitions.** As used in this Chapter, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:
- (1) **Flea Market.** A market, indoors or out of doors, where new or used items are sold from individual locations, with each location being operated independently from the other locations. Items sold include but are not limited to household items, antiques, rare items, decorations, used books and used magazines.
  - (2) **Flea Market Seller.** A person, firm or corporation selling items or offering items for sale at a flea market.
  - (3) **Market.** A place where goods are sold to the public.
- (b) **License Required.** No person, firm or corporation shall operate the business of renting space or allocating space to flea market sellers without first obtaining a license therefor from the Common Council. Applications for license shall be made to the City Administrator, on forms to be provided by the City Administrator. Only one (1) license shall be required for each flea market, and the individual flea market sellers shall not be required to obtain a license under this Section. The fee for such license shall be as prescribed in Section 1-3-1 per year. The Common Council may restrict the license for use on certain dates and times.
- (c) **Information to Be Filed.** The information to be filed with the City Administrator, pursuant to this Chapter, shall be as follows:
- (1) Name of person, firm, group, corporation, association, or organization conducting said sale.
  - (2) Name of owner of the property on which said sale is to be conducted, and consent of owner if the applicant is other than the owner.
  - (3) Location at which sale is to be conducted.
  - (4) Number of days of sale.
  - (5) Date, nature of any past sale.
  - (6) Relationship or connection applicant may have had with any other person, firm, group, organization, association, or corporation conducting said sale and the date or dates of such sale.

**7-10-1**

- (7) Whether or not the applicant has been issued any other vendor's license by any local, state or federal agency.
- (8) Sworn statement or affirmation by the person signing that the information therein given is full and true and known to him/her to be so.
- (d) **Records to Be Kept by Licensee.** Each person required by this Section to obtain a license shall keep accurate records of the names and addresses of each flea market seller, together with a brief description of the type or types of merchandise offered for sale by that seller.
- (e) **Secondhand Stores Excepted.** No person, firm or corporation having a license as a secondhand store shall be required to obtain a license under this Section for the same business location.
- (f) **More Than One Market.** Any person, firm or corporation renting or allocating space to flea market sellers in more than one (1) place of business shall be required to obtain a license for each place of business, provided that one license shall be adequate for locations that are on the same lot, adjacent lots or lots separated only by an alley.
- (g) **Unlawful Transactions.** No person shall sell or offer for sale at any flea market any goods known to such person to be stolen.
- (h) **Purchases from Children.** No flea market seller shall purchase any used household item, antique or used article whatsoever from any person under the age of eighteen (18) years, unless such person is accompanied by the person's parent or guardian.
- (i) **Hours.** Flea markets may remain open for business between the hours of 9:00 a.m. and 8:00 p.m., unless otherwise specified on the license by the Council at the time of issuance.

**Sec. 7-10-2 Garage Sales.**

- (a) **License Required.** Any person wishing to hold a garage sale shall first obtain a license from the City Administrator. The license shall be obtained at least one (1) working day before the sale and shall be prominently displayed during the sale. The fee for such a license shall be as prescribed in Section 1-3-1, and the City Administrator shall notify the Police Department in writing of all such licenses issued.
- (b) **Frequency of Sales; Ownership of Merchandise.**
  - (1) Garage sales, yard sales and similar merchandise sales may be held no more than twice per year at any residence, and for a total of not more than ten (10) days in that year. All goods offered for sale shall be household goods or personal possessions from the residence where the sale is being held, or in the case of a group sale, from the residences of the participating households. In no case shall any sales become outlets for wholesale or retail commercial sales.
- (c) **Hours.** Garage sales shall be conducted between 8:00 a.m. and 8:00 p.m. Each sale shall last no longer than four (4) consecutive days.

(d) **Signs.**

- (1) Garage sale signs may not have an area more than six (6) square feet with a maximum of two (2) faces. Garage sale signs shall identify the location of the sale and must be located at least five (5) feet from the street line or nearest lot line.
- (2) No garage sale sign may be located on utility poles, traffic control devices, or on property or the adjoining right-of-way of property the owner of which has not given explicit permission for its location.
- (3) No garage sale sign shall be displayed before one (1) day before the sale or one (1) day following the sale.
- (4) No more than one (1) garage sale sign may be located at the sale site and no more than two (2) garage sale signs may be located at the sale site and no more than two (2) garage sale signs may be located off the site, except that two (2) signs are permitted on corner lots, one facing each street.

(e) **Definitions.** The following definitions are applicable to this Section:

- (1) **Garage Sale.** All general sales open to the public, conducted from or on a residential premises, for the purpose of disposing of personal property, including but not limited to all sales entitled rummage, lawn, yard, porch, room, backyard, patio or garage sale.
- (2) **Personal Property.** Property which is owned, utilized and maintained and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.



# Title 7 ► Chapter 11

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## Taxicabs

<b>7-11-1</b>	Regulation of Taxicabs
<b>7-11-2</b>	Insurance Required
<b>7-11-3</b>	Inspection Required
<b>7-11-4</b>	Conditions of License
<b>7-11-5</b>	Exceptions
<b>7-11-6</b>	Refusal to Pay Tax Fare Prohibited
<b>7-11-7</b>	Revocation of License

### **Sec. 7-11-1 Regulation of Taxicabs.**

#### **(a) Licensing of Taxicabs.**

- (1) No person shall regularly offer taxicab service within the City or regularly operate a motor vehicle upon the highways and streets of the City unless such taxicab business is licensed by the City as hereinafter provided. Taxicabs operated by non-profit organizations are exempt from the licensing requirements of this Chapter.
- (2) Application for the licensing of a taxicab business shall be addressed to the Common Council and shall be filed with the City Administrator, together with a tendered license fee prorated on the basis of the annual license fee set forth in Subsection (d), should each remaining portion of the calendar license year be less than eleven (11) months. The Administrator shall present such application to the Common Council at its next regular meeting and the Council shall consider such application and shall instruct the Administrator to issue the license or dismiss the application upon a majority vote of the Council.
- (3) No license for taxicab business based on new application therefor shall be issued except upon a showing that the available transportation facilities are not adequate to meet the public need and that the applicant is proper and able to furnish it.
- (4) The taxicab business license fee prescribed in Section 1-3-1 shall be based on the number of vehicles to be operated thereunder as follows: One (1) vehicle; two (2) vehicles; three (3) vehicles; charge for each vehicle over three (3).
- (5) The license year for taxicab business licenses shall be from January 1 through December 31. As a condition to the continued holding and renewal of license for a taxicab business, the proprietor, owner or his agent shall pay to the City the license

fees computed as set forth in Subsection (d) above each year on or before the 15th day of January.

(b) **Chauffeur's License Required for Taxi Operators.**

- (1) No person shall operate any motor vehicle for taxicab purposes upon the highways and streets of the City unless such person is licensed by the City as a chauffeur pursuant to application therefor addressed to the Council and which application shall have been approved by the Chief of Police.
- (2) The license fee for a chauffeur's license is as prescribed in Section 1-3-1, which is and shall be for the current calendar year or portion thereof in which the application is made and shall not be proratable. Such fee shall be tendered when the application is filed with the City Administrator.
- (3) Each applicant shall submit in writing to the City Administrator on forms furnished by the City, a statement of his/her full name, his/her present residence, his/her age, color, height, weight, color of eyes and hair, citizenship, and his/her Wisconsin State Motor Vehicle Operator's license number, whether he/she has been convicted of a felony or misdemeanor and if so, when, and whether his/her operator's license has even been revoked or suspended, and if so, for what cause and the name of the prospective employer. Such application shall be filed with the Administrator; the Common Council shall grant or refuse said license.
- (4) No license shall be granted to any person:
  - a. Who is under eighteen (18) years of age.
  - b. Who does not possess a valid Wisconsin Motor Vehicle Operator's license.
  - c. Who has been convicted of a felony or who has been convicted of driving a vehicle upon the highway while under the influence of intoxicating liquor or narcotics unless two (2) years have elapsed since his/her date of conviction or discharge from a penal institution.
- (5) A taxi driver's license shall expire on June 30th following its issuance. It may be renewed upon application to the City Administrator on a form furnished by him/her entitled "Application for Renewal of Taxi Driver's License" which shall show the full name and address of the application, and the date upon which his/her original license was granted and the number thereof.
- (6) Upon the granting of the license by the Council or renewal thereof, the application shall pay the license fee to the Administrator, who shall deliver to each licensed taxi driver a license in the form of a card, which shall give the name, address, the number of license; which the licensee shall put in a conspicuous spot in the taxicab which he/her is driving. No driver may loan his/her license or permit to another to use it subject to revocation of his/her license.
- (7) a. The Common Council shall refuse a taxicab driver's license if the licensee has, since the granting of the permit:
  1. Had his/her State Motor Vehicle Operator's license revoked or suspended.
  2. Been convicted of driving while under the influence of intoxicating liquors or narcotics.

*State Law Reference:* Sec. 349.24, Wis. Stats.

**Sec. 7-11-2 Insurance Required.**

- (a) It shall be unlawful to operate a vehicle for the conveyance of passengers for hire or permit the same to be operated, nor shall any license be issued hereunder until and unless the applicant for a license deposit with the City Administrator a certificate of liability insurance for the vehicles for which licenses are sought, said certificate of liability insurance to be acceptable and approved by the City Administrator and issued by a company authorized to do business in the State of Wisconsin, indemnifying the applicant 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 operation of said vehicles in the City.
- (b) Each taxicab insurance policy shall contain a provision that the same may not be cancelled before the expiration of its term except upon thirty (30) days' written notice to the City. Every day upon which any vehicle is operated for the conveyance of passengers for hire or when taxicab or cab or similar transportation is offered to the public without an insurance policy as required herein being in effect and on file with the City Administrator shall be deemed a separate violation. The cancellation or other termination of any insurance policy issued in compliance with this Section shall automatically revoke and terminate all licenses issued for the taxicab covered by such insurance policy, unless another policy shall be provided and in effect at the time of such cancellation or termination.

**Sec. 7-11-3 Inspection Required.**

- (a) No vehicle shall be licensed until it has been annually examined by a reputable automobile repair facility and found to be in a thoroughly satisfactory and safe condition for the transportation of passengers, clean, of good appearance and well painted. The Chief of Police shall determine whether said vehicle complies with all the other provisions of this Chapter. If such examination and inspection shows that vehicle does not comply with any of the provisions of this Section, no license shall be issued. At the request of the Chief of Police, the taxicab owners shall take their vehicles to a reputable garage for an independent inspection at owner's expense.
- (b) No taxicab shall be licensed until the Police Department has approved that:
  - (1) The horn, footbrake, windshield, rear vision mirror, fenders, exhaust system, windshield wipers, emergency brake, directional signals, speedometer, license lamps, tires, headlamps, stop lamps and tail lamps are in legal working order as required by the Wisconsin Motor Vehicle Code;
  - (2) The taxicab is in generally safe, sanitary and reliable condition.

- (c) The inspection required by this Section is only an inspection of the taxicab's exterior and passenger areas and shall not be a thorough mechanical inspection of the taxicab. Nothing in this Section shall be interpreted as relieving the owner or operator of a taxicab from any and all liability arising from any unsafe, unsanitary, unreliable or illegal conditions existing in his taxicab, whether or not such conditions are discovered or omitted by the inspections required herein. This Section shall not be interpreted as creating a duty or liability on the part of the City of Amery, the Police Department or any employee or agent of the City to any person.
- (d) Any police officer of this City may, at all reasonable times, inspect any cab or public hack under such taxicab business license and may prohibit the use of any cab which is unsafe or not in proper repair.

#### **Sec. 7-11-4 Conditions of License.**

- (a) **Licenses Nontransferable.** Licenses issued or granted under this Chapter shall be nonassignable and nontransferable.
- (b) **Information Card to be Displayed.** A card containing the name of the owner, license number, the number of the vehicle and rates of fare printed thereon shall be placed and at all times kept in a conspicuous place inside such vehicle.
- (c) **Liability of Licensee.** Any licensee shall be liable for any violations of ordinances or statutes by any and all persons operating taxicabs under its license.
- (d) **Number of Passengers.** No licensee or person driving a taxicab shall carry or permit to be carried in any such vehicle more than the number of persons specified in the license applicable to such vehicle.
- (e) **Common Council May Impose Further Restrictions.** Any licensee hereunder shall be subject to such further regulations and restrictions as may be imposed at any time by the Common Council.

#### **Sec. 7-11-5 Exceptions.**

This Chapter shall not apply to persons, firms or corporations engaged in the business of carrying passengers for hire both interstate and intrastate between regularly established points and on regularly established time schedules, nor to the operator of a motor vehicle engaged in the business of transporting school students for hire.

#### **Sec. 7-11-6 Refusal to Pay Tax Fare Prohibited.**

No person who has been transported by a taxicab shall refuse to pay the fare for such transportation as such fare is shown on the taximeter or zone meter.

**Sec. 7-11-7 Revocation of License.**

- (a) **Revocation.** Licenses granted under Sections 7-11-1 through 7-11-4 may be suspended or revoked at any time by the Chief of Police for any violation of this Chapter. When a taxicab license is revoked or cancelled as herein provided, the Chief of Police shall immediately notify the owner to cease at once to operate the vehicle for which the license has been revoked as a taxicab.
- (b) **Appeals.** Any person who received a revocation of license and objects to all or part thereof may appeal to the Common Council within seven (7) days of the receipt of the order and the Common Council shall hear such appeal within thirty (30) days of receipt of such written notice of the appeal. After such hearing, the Common Council may reverse, affirm or modify the order or determination.



## Title 7 ► Chapter 12

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# Public Shows, Circuses, Carnivals and Other Similar Events

### 7-12-1 Regulation of Public Shows

#### Sec. 7-12-1 Regulation of Public Shows.

- (a) It shall be unlawful for any person or entity to operate a circus, carnival, menagerie or any other show or exhibition of a similar nature in the City of Amery without first having obtained a license therefore.
- (b) The amount to be paid for a license shall be as follows, for each calendar day on which a show will be held:
  - (1) For a circus: See Section 1-3-1.
  - (2) For a menagerie alone: See Section 1-3-1.
  - (3) For a carnival show: See Section 1-3-1.
  - (4) For all other shows which do not clearly fall in one of the above categories: See Section 1-3-1.
- (c) A license shall be issued restricting the event to the premises described therein.
- (d) Licenses shall be issued for a maximum of four (4) consecutive days, and a maximum of four (4) days within any thirty (30) day period beginning the first day of the show or exhibit being licensed.
- (e) Applicants for a license shall provide proof of liability insurance in an amount not less than One Million Dollars (\$1,000,000.00) single limit per occurrence.
- (f) The City Administrator, upon proper written application and payment of the appropriate fee, shall issue a license to the person applying for the same unless:
  - (1) It shall appear to the Administrator that the purpose, content, method of exhibition or other aspect of such event shall be of a nature that shall disturb the public safety, peace and quiet; or
  - (2) It shall appear to the Chief of Police or Fire Chief or Building Inspector that the proposed site for the exhibit or show shall be unsafe or unsanitary for the proposed event; or
  - (3) The applicant has failed to provide adequate proof of the required minimum liability insurance.

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- (g) The Administrator shall consult with the Chief of Police, Fire Chief and Building Inspector before issuing a license under this Chapter.

## Title 7 ► Chapter 13

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# Tattooing and Body Piercing

<b>7-13-1</b>	Applicability
<b>7-13-2</b>	Definitions
<b>7-13-3</b>	Administration
<b>7-13-4</b>	Tattooing, Body Piercing — Permit Required
<b>7-13-5</b>	Health and Sanitary Requirements
<b>7-13-6</b>	Temporary Facility or Temporary Combined Facility
<b>7-13-7</b>	Record Retention
<b>7-13-8</b>	Appeals
<b>7-13-9</b>	Regulations, Rules and Laws Adopted by Reference

### **Sec. 7-13-1 Applicability.**

The provisions of this Chapter shall apply to tattoo and body piercing facilities, tattoo artists and body piercers, and the practice of tattooing and body piercing.

### **Sec. 7-13-2 Definitions.**

The following definitions shall be applicable in this Chapter, unless otherwise specifically indicated:

- (a) **Health Authorities.** County or state agencies/officials having regulatory and inspection responsibilities and authority regarding health matters associated with tattooing and body piercing practices and facilities. The Chief of Police or Building Inspector may perform some of these functions if so directed by the health authorities.
- (b) **Sterilize.** Submission to the steam pressure (autoclave) method with at least fifteen (15) pounds of pressure per square inch at two hundred fifty (250) degrees Fahrenheit for at least thirty (30) minutes, such that all forms of microbial life, including spores, viruses, bacteria and fungi, are destroyed.
- (c) **Tattoo Artist.** Any person engaged in the practice of tattooing.
- (d) **Tattoo Facility.** The location where tattooing is practiced.
- (e) **Tattooing.** Means and includes any method of placing or removing designs, letters, scrolls, figures, symbols, or any other marks upon or under the skin of a person with ink or color by the aid of needles or instruments.

- (f) **Temporary Facility.** A single building, structure, area or location where a tattoo artist or body piercer performs tattooing or body piercing for a maximum of seven (7) days per event.
- (g) **Body Piercer.** A person who performs body piercing on another person at that person's request.
- (h) **Body Piercing.** Perforating any human body part or tissue, except an ear, and placing a foreign object in the perforation to prevent the perforation from closing.
- (i) **Body Piercing Facility.** The premises where a body piercer performs body piercing.
- (j) **Temporary Combined Facility.** A single building, structure, area, or location where both tattooing and body piercing are performed for a maximum of seven (7) days per event.

### **Sec. 7-13-3 Administration.**

The provisions of this Chapter shall be administered by or under the direction of the City Administrator, in consultation with health authorities and City law enforcement authorities, who in person or by duly authorized representative, shall have the right to enter, at reasonable hours, upon premises affected by this Chapter, to inspect the premises, examine and copy relevant documents and records, or obtain photographic or other evidence needed to enforce the provisions of this Chapter.

### **Sec. 7-13-4 Tattooing, Body Piercing — Permit Required.**

- (a) **Permit Required.** No person shall engage in the practice of tattooing or body piercing or shall carry on the business of operating a tattoo or body piercing facility or a combined tattoo and body piercing facility within the City of Amery unless he/she has a valid permit issued by the City Administrator for each and every such place of business.
- (b) **Application.** Application for permits shall be made in writing to the City Administrator, stating the name and address of the applicant and the name and address of the proposed tattoo or body piercing facility or a combined tattoo and body piercing facility, together with such other information as may be required.
- (c) **Fee.** An annual fee shall accompany the permit application as follows:
  - (1) Tattoo or body piercing facility permit: Per Section 1-3-1.
  - (2) Tattoo artist permit: Per Section 1-3-1.
  - (3) Temporary facility or temporary combined facility permit: Per Section 1-3-1.
  - (4) Body piercer permit: Per Section 1-3-1.
  - (5) Combined tattoo and body piercing facility permit: Per Section 1-3-1.
  - (6) Inspection of new facility: Per Section 1-3-1.
- (d) **Permit.** Permits shall be posted in a conspicuous place in the tattoo or body piercing facility. Permits are not transferable and, except for temporary tattoo or body piercing facility permits, shall expire on June 30 following their issuance.

- (1) **Tattoo or Body Piercing Facility Permit.** A separate permit is required for each tattoo or body piercing facility. A permit shall not be transferable to a location other than the one for which it was issued. Such permits shall expire on June 30 following their issuance, unless they are issued between April 1 and June 30, in which case they shall expire on June 30 of the following year.
  - (2) **Tattoo Artist or Body Piercer Permit.** A separate permit is required for each tattoo artist or body piercer engaged in the practice of tattooing or body piercing. Such permits shall expire on June 30 following their issuance, unless they are issued between April 1 and June 30, in which case they shall expire on June 30 of the following year.
  - (3) **Temporary facility or temporary combined facility permit.** A separate permit is required for each temporary facility or temporary combined facility. Such permit is not transferrable to a location other than the one for which it was issued and shall expire seven days after the date it was issued.
- (e) **Permit Suspension and Revocation.** Such permit may be temporarily suspended by the Chief of Police, Building Inspector or health authorities for violations that present an immediate health hazard or may be revoked after repeated violations of this Chapter. Any person affected by such suspension or revocation shall have the right to appeal pursuant to Section 7-13-8.

## **Sec. 7-13-5 Health and Sanitary Requirements.**

- (a) **Premises.**
- (1) Floor surfaces in the room in which the tattoo or body piercing is administered shall be impervious, smooth and washable. Carpeting is not allowed.
  - (2) A handwashing facility supplied with hot and cold water under pressure, soap, and single-service towels shall be conveniently located in the tattoo or body piercing area, in addition to what is provided in the toilet room.
  - (3) Approved waste containers with non-absorbent, durable plastic liners shall be used for all tissues, towels, gauze pads and other similar items used on the client. Any infectious waste shall be disposed of as required by Ch. NR 526, Wis. Adm. Code.
  - (4) Adequate cabinets with washable surfaces shall be provided for exclusive storage of instruments, dyes, pigments, stencils, and other equipment used in the practice of tattooing or body piercing.
  - (5) All tattoo or body piercing facilities shall be maintained in a clean, sanitary condition and in good repair.
  - (6) The tattoo or body piercing facility application area where the procedure is performed shall be adequately lighted to a minimum of fifty (50) foot candles.
  - (7) Tattooing or body piercing shall be performed by a tattoo artist or body piercer in a tattoo or body piercing facility completely separated from any living quarters by a

solid permanent partition. A solid door leading to the living quarters is permitted, provided it remains closed during business hours. A direct outside entrance to the tattoo or body piercing facility shall be provided.

(b) **Equipment.**

- (1) **Autoclaves.** All tattoo or body piercing facilities shall be equipped with an autoclave which is in good working order and which is manufactured with temperature and pressure gauges marked and visible on the outside of the unit:
  - a. As an alternative to requiring a pressure gauge, spore strips or suspensions shall be used at least weekly and results recorded for performance checks of the autoclave.
  - b. A record must be maintained for each sterilization cycle, including date, sterilizing temperature, length of time at sterilizing temperature, and what was autoclaved.
  - c. A minimum of one time sterile indicator tape shall be included with each load sterilized and the results recorded and the autoclave shall be spore tested at least monthly. Spore kill effectiveness testing shall be conducted by an independent laboratory.
  - d. The autoclave shall be of sufficient size and shall be operated in accordance with manufacturer's recommendations and in a manner to prevent crowding of the chamber.
  - e. The autoclave chamber temperature shall be checked at least weekly with a maximum registering thermometer and results recorded.
- (2) **Sterilized Instruments.** All instruments used in the practice of tattooing or body piercing shall be sterilized before use:
  - a. All instruments shall be thoroughly cleaned before being sterilized. This may be done with an ultrasonic cleaner or with a probe, needles, or brush able to enter the smallest opening of the instrument. The cleaning of instruments shall be done with detergent and hot water or other methods approved by health authorities.
  - b. All instruments used in the tattoo or body piercing procedure shall be stored in a clean, dry manner after sterilization and handled in a way that will prevent recontamination.
- (3) **Needles.** Needles shall be disposable, sterile, single-patron use.
- (4) **Stencils.**
  - a. Plastic stencils shall be thoroughly cleaned with soap and water and sanitized after each use. They are to be sanitized by immersion for thirty (30) minutes in a chlorine disinfectant solution prepared by mixing one (1) tablespoon of household bleach containing five percent (5%) chlorine with one (1) pint of water and allowed to air dry.
  - b. Prior to use, each pre-cleaned and sanitized plastic stencil shall be rinsed in a seventy percent (70%) isopropyl alcohol solution and allowed to air dry.

- c. Paper stencils shall only be used once. New paper stencils shall be used for every individual.
- (5) **Dyes and Inks.**
- a. The licensee shall submit in writing to the health authorities the source of all dyes and inks used in administering tattoos.
  - b. Non-toxic dyes or inks shall be taken only from effectively covered squeeze bottle containers that are easy to clean and disinfect.
  - c. Immediately before applying a tattoo; the dye to be used for the tattoo shall be squeezed from the dye bottles into disposable cups. The disposable cups shall be stored and handled in a manner to prevent them from becoming contaminated. Upon completion of the tattoo, the cups and dye shall be discarded. Any dye in which the needles were dipped shall not be used on another person.
- (c) **Skin Preparation.**
- (1) **Aseptic Technique.** Aseptic technique must be utilized in the practice of tattooing or body piercing:
- a. Each tattoo artist or body piercer is required to scrub his/her hands with liquid soap (i.e., tincture of green soap) and water thoroughly before commencing tattooing or body piercing on the client.
  - b. If the client's skin is to be shaved, the skin shall be washed with a cleansing antiseptic/antimicrobial skin cleaner before shaving. A safety razor shall be used. A new blade shall be used for each client. The blade shall be discarded after each use. Reusable blade holders shall be sterilized after each use. If disposable blade holders are used, they may be used on one client only and then must be discarded.
  - c. The skin area to be tattooed or body pierced shall first be cleansed with soap and water and then prepared with antiseptic such as seventy percent (70%) alcohol (and allowed to air dry) or other method approved by the health authorities.
  - d. Single-use gauze pads or towels shall be used in the skin cleaning and preparation.
  - e. Petroleum jelly applied on the tattoo area shall be dispensed from a single-use disposable container or with a sterile tongue blade or sterile applicator stick which shall be discarded after each use.
- (2) **Antibacterial Ointments.** After the tattooing or body piercing is completed, only antibacterial ointments shall be applied on the tattoo or body piercing, and if a dressing is to be used, it must be a sterile, non-sticking dressing.
- (3) **Instructions.** Persons tattooed or body pierced shall be provided with printed instructions regarding tattoo or body pierce care during the healing process.
- (d) **General Supplies.**
- (1) All tattoo or body piercing facilities shall have clean, laundered towels, washcloths or disposable paper towels in sufficient quantity for the sanitary operation of the practice of tattooing or body piercing.

- (2) A clean towel and washcloth shall be used for each client.
- (3) Clean towels and washcloths shall be stored in a closed, dustproof container.
- (4) Soiled towels and washcloths shall be stored in an approved covered container.
- (5) All tattoo artists or body piercers shall wear clean, washable garments.
- (6) The operating table, chair, and supply tables shall be constructed of a material capable of being easily and thoroughly cleaned and disinfected.

(e) **Tattoo Artist and Body Piercer Requirements.**

- (1) The tattoo artist or body piercer shall be free of infectious or contagious disease that may be transmitted by the practice of tattooing or body piercing.
- (2) Tattoo artists or body piercers with open sores or skin infections on the hand or hands shall not be permitted to engage in the practice of tattooing or body piercing. The tattoo artist or body piercer shall wear single-use disposable latex or vinyl gloves during tattooing or body piercing.
- (3) Smoking or consumption of food or drink shall not be allowed in the immediate vicinity where the tattoo or body piercing procedure is being performed.
- (4) The tattoo artist or body piercer shall wash his/her hands thoroughly with liquid soap and water before any skin preparation, tattooing, or body piercing and after removing gloves. The hands shall be dried with individual single-service towels.
- (5) No person shall be present in the immediate vicinity of the area in which tattoos or body piercing are administered unless authorized by the tattoo artist or body piercer.
- (6) No animals, except guide dogs, are allowed in the tattoo or body piercing facility.
- (7) The work areas, such as counter tops, must be cleaned and wiped with a disinfectant between clients.
- (8) Physical examination of tattoo artists or body piercers may be required. Health authorities shall have the power to require any tattoo artist or body piercer to submit to a practicing physician for a physical examination whenever the tattoo artist or body piercer is reasonably suspected of having any infectious or contagious disease that may be transmitted by the practice of tattooing or body piercing. The expense of the physical examination shall be the responsibility of the tattoo artist or body piercer. All medical records shall remain confidential, except as otherwise provided by law. Failure to obtain the required physical examination shall result in suspension or revocation of the tattoo artist or body piercing permit.

(f) **Clients.**

- (1) Inquiry shall be made and no tattooing or body piercing shall be performed on any person who is suspected of having jaundice or hepatitis or who has recovered from jaundice or hepatitis within the preceding six (6) months.
- (2) Tattooing or body piercing shall not be performed on any person in an area with an evident skin infection or other skin disease or condition, including, but not limited to, rashes, pimples, boils or infections.

**Sec. 7-13-6 Temporary Facility or Temporary Combined Facility.**

The requirements contained in this Chapter shall apply to temporary facilities and temporary combined facilities, except where superseded by the following:

**(a) Permit.**

- (1) No temporary facility or temporary combined facility may be operated before being granted a permit by the City Administrator.
- (2) No permit may be issued without prior inspection.
- (3) The permit issued by the City Administrator shall be conspicuously displayed in the temporary facility or temporary combined facility.
- (4) A tattoo artist or body piercer operating a temporary facility or combined temporary facility, found to be an habitual violator of this Chapter by the City Administrator, may be denied a permit to operate or may have the permit revoked.

**(b) Premises.**

- (1) Floors shall be maintained in a sanitary condition. Dirt floors shall be covered by an approved material which will provide protection from dust.
- (2) a. When water is available under pressure, handwashing facilities with approved liquid waste disposal shall be reasonably accessible to the tattoo artist or body piercer.  
b. When water is not available under pressure, a minimum of two (2) basins or a two (2) compartment basin shall be provided.
- (3) Water in sufficient quantity shall be hauled and stored in containers that are easily cleanable, provided with tight-fitting covers, and maintained in a clean and sanitary condition.
- (4) Liquid soap and single-service towels for handwashing and drying hands shall be provided.

- (c) Equipment.** If an approved autoclave/sterilizer is not provided, only pre-sterilized instruments that are prewrapped with time sterile indicator tape attached and stored in a clean, dry manner may be used in the practice of tattooing or body piercing.

**Sec. 7-13-7 Record Retention.**

Records shall be kept by each permittee of all tattoos and body piercings administered, including the name of the client, date, general identification of the tattoo or body piercing, and tattoo artist's or body piercer's name. Records shall be kept on the premises of the tattoo or body piercing facility where tattoos or body piercings are administered. These records shall be available for inspection for a period of two (2) years after the date the tattoo or body piercing is completed.

### **Sec. 7-13-8 Appeals.**

Appeals from orders or permit denials under this Chapter shall be in conformance with the procedures for conducting appeals enumerated in Sec. 68, Wis. Stats., codified in Title 4 of this Code of Ordinances. An appeal does not eliminate the City's right to seek court intervention in the form of injunctive or other relief.

### **Sec. 7-13-9 Regulations, Rules and Laws Adopted by Reference.**

The applicable regulations, rules and laws set forth in Secs. 252.23, 252.24 and 252.245, Wis. Stats., and HFS 173, Wis. Adm. Code, are incorporated in this Chapter by reference and they shall be construed, read and interpreted as though fully set forth herein. The express provisions of this Chapter shall control where more restrictive.

*State Law Reference:* Secs. 252.23, 252.24 and 252.245, Wis. Stats.; HFS 173 and NR 526, Wis. Adm. Code.

## Title 7 ► Chapter 14

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# Licensees to Pay Local Claims; Appellate Procedures; Records Checks

- 7-14-1** Licensees Required to Pay Local Taxes, Assessments and Claims; Appellate Procedures
- 7-14-2** Records Checks

### **Sec. 7-14-1 Licensees Required to Pay Local Taxes, Assessments and Claims.**

- (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 Amery:
    - 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

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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.

- (c) **Other License Denial Appeals.** Where an individual, business or corporation wishes to appeal the City Administrator'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 Administrator 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.

*State Law Reference:* Sec. 66.0115, Wis. Stats.

**Sec. 7-14-2 Records Checks.**

Applicants for any license specified in this Title, except under Chapters 1 or 5, shall be required to pay a Five Dollar (\$5.00) CIB investigation fee at the time of making such application. The City may also require payment of such fee and a records investigation for license renewals.