

TITLE 7

Licensing and Regulation

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

(a) **License Required.** It shall be unlawful for any person in the Town of Taycheedah 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
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owner, or in an automobile of any other person with the consent of the owner of said dog or cat, shall be deemed to be upon the owner's premises.

(3) *Dog.* Any canine, regardless of age or sex.

(4) *Cat.* Any feline, regardless of age or sex.

(5) *Neutered.* A dog or cat having nonfunctional reproductive organs.

(6) *Animal.* Mammals, reptiles and birds.

(7) *Cruel.* Causing unnecessary and excessive pain or suffering or unjustifiable injury or death.

(8) *Law Enforcement Officer.* Has that meaning as appears in Sec. 967.02(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.

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

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

(a) *Rabies Vaccination.* The owner of a dog shall have the dog vaccinated against rabies by a veterinarian within thirty (30) days after the dog reaches four (4) months of age and revaccinated within one (1) year after the initial vaccination. If the owner obtains the dog or brings the dog into the Town of Taycheedah after the dog has reached four (4) months of age, the owner shall have the dog vaccinated against rabies within thirty (30) days after the dog is brought into the Town unless the dog has been vaccinated as evidenced by a current certificate of rabies vaccination. The owner of a dog shall have the dog revaccinated against rabies by a veterinarian before the date of that immunization expires as stated on the certificate of vaccination or, if no date is specified, within three (3) years after the previous vaccination. The certificate of vaccination shall meet the requirements of Sec. 95.21(2), Wis. Stats.

(b) *Issuance of Certificate of Rabies Vaccination.* A veterinarian who vaccinates a dog against rabies shall complete and issue to the owner a certificate of rabies vaccination bearing a serial number and in the form approved by the Town stating the owner's name and address, the name, sex, spayed or unspayed, neutered or unneutered, breed and color of the dog, the date of the vaccination, the type of rabies vaccination administered and the manufacturer's serial number, the date that the immunization expires as specified for that type of vaccine by the Center for Disease

Control of the U.S. Department of Health and Human Services and the Town.

(c) **Copies of Certificate.** The veterinarian shall keep a copy of each certificate of rabies vaccination in a file maintained for this purpose until the date that the immunization expires or until the dog is revaccinated, whichever occurs first.

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(d) **Rabies Vaccination Tag.** After issuing the certificate of rabies vaccination, the veterinarian shall deliver to the owner a rabies vaccination tag of durable material bearing the same serial number as the certificate, the year the vaccination was given and the name, address and telephone number of the veterinarian.

(e) **Tag to be Attached.** The owner shall attach the rabies vaccination tag or a substitute tag to a collar and a collar with the tag attached shall be kept on the dog at all times, but this requirement does not apply to a dog during competition or training, to a dog while hunting, to a dog securely confined indoors or to a dog securely confined in a fenced area. The substitute tag shall be of a durable material and contain the same information as the rabies vaccination tag. The requirements of this paragraph do not apply to a dog which is not required to be vaccinated under Subsection (a).

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

(g) **Cost.** The owner shall pay the cost of the rabies vaccination and the cost associated with the issuance of a certificate of rabies vaccination and the delivery of a rabies vaccination tag.

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

(a) Dog Licenses.

(1) It shall be unlawful for any person in the Town of Taycheedah 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) The minimum license tax under this Section shall be in accordance with the Town Board's current fee schedule.

(4) Upon payment of the required license tax and upon presentation of evidence that the dog is currently immunized against rabies, as required by Section 7-1-2 of this Chapter, the Town Treasurer or his/her deputy shall complete and issue to the owner a license for such dog containing all information required by state law. The Town Treasurer or his/her deputy shall also deliver to the owner, at the time of issuance of the license, a tag of durable material bearing the same serial number as the license, the name of the county in which issued and the license year.

(5) The owner shall securely attach the tag to a collar and the collar with the tag

attached shall be kept on the dog for which the license is issued at all times, except as provided in Section 7-1-2(e).

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(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 Town law enforcement or humane officer shall seize, impound or restrain any dog for which a dog license is required which is found without such tag attached. Each day that any dog within the Town of Taycheedah continues to be unlicensed constitutes a separate offense for which a separate penalty applies.

(7) Notwithstanding the foregoing, every dog specifically trained to lead blind or deaf persons is exempt from the dog license tax, and every person owning such a dog shall receive annually a free dog license from the Town Treasurer or his/her deputy upon application therefor, (b) **Kennel Licenses.**

(1) Any person who keeps or operates a kennel may, instead of the license tax for each dog required by this Chapter, apply for a kennel license for the keeping or operating of the kennel. Such person shall pay for the license year a license tax in accordance with the Town Board's current fee schedule for a kennel. Upon payment of the required kennel license tax and, if required by the Town Board, upon presentation of evidence that all dogs over five (5) months of age are currently immunized against rabies, the Town Treasurer or his deputy shall issue the kennel license and a number of tags equal to the number of dogs authorized to be kept in the kennel.

(2) The owner or keeper of a kennel shall keep at all times a kennel license tag attached to the collar of each dog over five (5) months old kept by the owner or keeper under a kennel license but this requirement does not apply to a show dog during competition, to a dog securely confined indoors or to a dog securely confined in a fenced area. These tags may be transferred from one dog to another within the kennel whenever any dog is removed from the kennel. The rabies vaccination tag or substitute tag shall remain attached to the dog for which it is issued at all times but this requirement does not apply to a show dog during competition, to a dog securely confined indoors or to a dog securely confined in a fenced area. No dog bearing a kennel tag shall be permitted to stray or to be taken anywhere outside the limits of the kennel unless the dog is in leash or temporarily for the purposes of hunting, breeding, trial, training or competition.

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

Sec. 7-1-4 Late Fees.

The Town Treasurer 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.

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Sec. 7-1-5 Rabies Quarantine.

(a) **Dogs and Cats Confined.** If a district or neighborhood is quarantined for rabies, all dogs and cats within the Town shall be kept securely confined, tied, leashed or muzzled. Any dog or cat not confined, tied, leashed or muzzled is declared a public nuisance and may be impounded. All officers shall cooperate in the enforcement of the quarantine. The Town Clerk shall promptly post in at least three (3) public places in the Town notices of quarantine.

(b) **Exemption of Vaccinated Dog or Cat from Town Quarantine.** A dog or cat which is immunized currently against rabies, as evidenced by a valid certificate of rabies vaccination or other evidence, is exempt from the Town quarantine provisions of Subsection (a) if a rabies vaccination tag or substitute tag is attached to the dog's or cat's collar.

(c) Quarantine or Sacrifice of an Animal Suspected of Biting a Person or Being Infected or Exposed to Rabies.

(1) ***Quarantine or sacrifice of dog or cat.*** A law enforcement, humane or animal control officer shall order a dog or cat quarantined if the officer has reason to believe that the animal bit a person, is infected with rabies or has been in contact with a rabid animal. If a quarantine cannot be imposed because the dog or cat cannot be captured, the officer may kill the animal. The officer may kill a dog or cat only as a last resort if the owner agrees. The officer shall attempt to kill the animal in a humane manner and in a manner which avoids damage to the animal's head.

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

(d) Quarantine of Dog or Cat.

(1) ***Delivery to isolation facility or quarantine on premises of owner.*** A law enforcement, humane or animal control officer who orders a dog or cat to be quarantined shall deliver the animal or shall order the animal delivered to an isolation facility as soon as possible but no later than twenty-four (24) hours after the original order is issued or the officer may order the animal to be quarantined on the premises of the owner if the animal is immunized currently against rabies as evidenced by a valid certificate of rabies vaccination or other evidence.

(2) ***Health risk to humans.*** If a dog or cat is ordered to be quarantined because there is reason to believe that the animal bit a person, the custodian of an isolation facility or the owner shall keep the animal under strict isolation under the supervision of a veterinarian for at least ten (10) days after the incident occurred. In this paragraph, "supervision of a veterinarian" includes, at a minimum, examination of the animal on the first day of isolation, on the last day of isolation and on one (1) intervening day. If the observation period is not extended and if the veterinarian certifies that the dog or cat has not exhibited any signs of rabies, the animal may be released from quarantine at the end of the observation period.

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(3) Risk to animal health.

a. If a dog or cat is ordered to be quarantined because there is reason to believe that

the animal has been exposed to a rabid animal and if the dog or cat is not currently immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for one hundred eighty (180) days. The owner shall have the animal vaccinated against rabies between one hundred fifty-five (155) and one hundred sixty-five (165) days after the exposure to a rabid animal.

b. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal but if the dog or cat is immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for sixty (60) days. The owner shall have the animal revaccinated against rabies as soon as possible after exposure to a rabid animal.

(4) *Sacrifice of a dog or cat exhibiting symptoms of rabies.* If a veterinarian determines that a dog or cat exhibits symptoms of rabies during the original or extended observation period, the veterinarian shall notify the owner and the officer who ordered the animal quarantined and the officer or veterinarian shall kill the animal in a humane manner and in a manner which avoids damage to the animal's head. If the dog or cat is suspected to have bitten a person, the veterinarian shall notify the person or the person's physician.

(e) *Delivery of Carcass; Preparation; Examination by Laboratory of Hygiene.* An officer who kills an animal shall deliver the carcass to a veterinarian or local health department. The veterinarian or local health department shall prepare the carcass, properly prepare and package the head of the animal in a manner to minimize deterioration, arrange for delivery by the most expeditious means feasible of the head of the animal to the State Laboratory of Hygiene and dispose of or arrange for the disposal of the remainder of the carcass in a manner which minimizes the risk or exposure to any rabies virus. The Laboratory of Hygiene shall examine the specimen and determine if the animal was infected with rabies. The State Laboratory of Hygiene shall notify the Town, the veterinarian or local health department which prepared the carcass and, if the animal is suspected to have bitten a person, that person or the person's physician.

(f) *Cooperation of Veterinarian.* Any practicing veterinarian who is requested to be involved in the rabies control program by an officer is encouraged to cooperate in a professional capacity with the Town, the Laboratory of Hygiene, the local health department, the officer involved and, if the animal is suspected to have bitten a person, the person's physician.

(g) *Responsibility for Quarantine and Laboratory Expenses.* The owner of an animal is responsible for any expenses incurred in connection with keeping the animal in an isolation facility, supervision and examination of the animal by a veterinarian, preparation of the carcass for laboratory examination and the fee for the laboratory examination. If the owner is unknown, the county is responsible for these expenses.

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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 Town of Taycheedah to own, harbor or keep any dog, cat, fowl or other animal which:

- (1) Habitually pursues any vehicle upon any public street, alley or highway in the Town.
- (2) Assaults or attacks any person or destroys property.
- (3) Is at large within the limits of the Town.
- (4) Habitually barks or howls to the annoyance of any person or persons. (See Section 7-1-11)
- (5) Kills, wounds or worries any domestic animal.
- (6) Is known by such person to be infected with rabies or to have been bitten by an animal known to have been infected with rabies.
- (7) In the case of a dog, is unlicensed.

(b) Vicious Dogs and Animals.

(1) For purposes of enforcing this Section, a dog shall be deemed as being of a vicious disposition if, within any twelve (12) month period it bites two (2) or more persons or inflicts serious injury to one (1) person in unprovoked circumstances off the owner's premises. Any vicious dog which is found off the premises of its owner other than as hereinabove provided may be seized by any person and, upon delivery to the proper authorities, may, upon establishment to the satisfaction of a court of competent jurisdiction of the vicious character of said dog, by testimony under oath reduced to writing, be killed by the law enforcement authorities.

(2) No person shall harbor or permit to remain on his/her premises any animal that is habitually inclined toward attacking persons or animals, destroying property, barking excessively or making excessive noises or running after automobiles.

(c) Animals Running at Large.

(1) No person having in his/her possession or ownership any animal or fowl shall allow the same to run at large within the Town. The owner of any animal, whether licensed or unlicensed, shall keep his animal tied or enclosed in a proper enclosure so as not to allow said animal to interfere with the passing public or neighbors. Any animal running at large unlicensed and required by state law or Town Ordinance to be licensed shall be seized and impounded by a humane or law enforcement officer.

(2) A dog shall not be considered to be running at large if it is on a leash and under control of a person physically able to control it.

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

(e) **Animal Feces.** The owner or person in charge of any dog 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.

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Sec. 7-1-7 Impoundment of Animals.

(a) Animal Control Agency.

(1) The Town of Taycheedah may contract with or enter into an agreement with

such person, persons, organization or corporation to provide for the operation of an animal shelter, impoundment of stray animals, confinement of certain animals, disposition of impoundment animals and for assisting in the administration of rabies vaccination programs.

(2) The Town of Taycheedah does hereby delegate any such animal control agency the authority to act pursuant to the provisions of this Section.

(b) **Impounding of Animals.** In addition to any penalty hereinafter provided for a violation of this Chapter, any law enforcement or humane officer may impound any dog, cat or other animal which habitually pursues any vehicle upon any street, alley or highway of this Town, assaults or attacks any person, is at large within the Town, habitually barks, cries or howls, kills, wounds or worries any domestic animal or is infected with rabies. In order for an animal to be impounded, the impounding office must see or hear the violation of this Section or have in his/her possession a signed statement of a complaining witness made under oath alleging the facts regarding the violation and containing an agreement to reimburse the Town for any damages it sustains for improper or illegal seizure.

(c) **Claiming Animal; Disposal of Unclaimed Animals.** After seizure of animals under this Section by a law enforcement or humane officer, the animal shall be impounded. The officer shall notify the owner, personally or through the U.S. Mail, if such owner be known to the officer or can be ascertained with reasonable effort, but if such owner be unknown or unascertainable, the officer shall post written notice in three (3) public places in the Town, giving a description of the animal, stating where it is impounded and the conditions for its release, after the officer has taken such animal into his/her possession. If within seven (7) days after such notice the owner does not claim such animal, the officer may dispose of the animal in a proper and humane manner; provided, if an animal before being impounded has bitten a person, the animal shall be retained in the Animal Shelter for fourteen (14) days for observation purposes. Within such times, the owner may reclaim the animal upon payment of impoundment fees, such fees to be established by resolution of the Town Board. No animal shall be released from the pound without being properly licensed if so required by state law or Town Ordinance.

(d) **Sale of Impounded Animals.** If the owner doesn't reclaim the animal within seven (7) days, the animal warden may sell the animal to any willing buyer.

(e) **Town Not Liable for Impounding Animals.** The Town and/or its animal control agency shall not be liable for the death of any animal which has been impounded or disposed of pursuant to this Section.

Sec. 7-1-8 Dogs and Cats Restricted on Cemeteries.

No dog or cat shall be permitted in any public cemetery. Every dog specially trained to lead blind or hearing impaired persons shall be exempt from this Section.

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

Every owner or person harboring or keeping a dog or cat who knows that such dog or cat has bitten any person shall immediately report such fact to a law enforcement, humane or animal control officer and shall keep such dog or cat confined for not less

than fourteen (14) days or for such period of time as a law enforcement, humane or animal control officer shall direct. The owner or keeper of any such dog or cat shall surrender the dog or cat to a law enforcement or humane officer upon demand for examination.

Sec. 7-1-10 Injury to Property by Animals.

It shall be unlawful for any person owning or possessing an animal, dog or cat to permit such animal, dog or cat to 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. 7-1-11 Barking Dogs or Crying Cats.

It shall be unlawful for any person knowingly to keep or harbor any dog which habitually barks, howls or yelps, or any cat which habitually cries or howls to the great discomfort of the peace and quiet of the neighborhood or in such manner as to materially disturb or annoy persons in the neighborhood who are of ordinary sensibilities. 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 two (2) formal, written complaints are filed with the Town Constable within a six (6) week period.

Sec. 7-1-12 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)

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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. 948.11, Wis. Stats.

Sec. 7-1-13 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. 948.13, Wis. Stats.

Sec. 7-1-14 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.

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- 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. 948.14, Wis. Stats.

Sec. 7-1-15 Neglected or Abandoned Animals.

(a) Neglected or Abandoned Animals.

- (1) No person may abandon any animal.
- (2) Any law enforcement officer may remove, shelter and care for an animal found to be cruelly exposed to the weather, starved or denied adequate water, neglected, abandoned or otherwise treated in a cruel manner and may deliver such animal to

another person to be sheltered, cared for and given medical attention, if necessary. In all cases the owner, if known, shall be immediately notified and such officer, or other person, having possession of the animal shall have a lien thereon for its care, keeping and medical attention and the expense of notice.

(3) If the owner or custodian is unknown and cannot, with reasonable effort, be ascertained or does not, within five (5) days after notice, redeem the animal by paying the expenses incurred, it may be treated as a stray and dealt with as such.

(4) Whenever in the opinion of any such officer an animal is hopelessly injured or diseased so as to be beyond the probability of recovery, it shall be lawful for such officer to kill such animal and the owner thereof shall not recover damages for the killing of such animal unless he shall prove that such killing was unwarranted.

(5) Section 948.16, Investigation of Cruelty Complaints, and Sec. 948.17, Wis. Stats., Expenses of Investigation, are hereby adopted by reference and made a part of this Chapter.

(b) Injured Animals. No person who owns, harbors or keeps any animal shall fail to provide proper medical attention to such animal when and if such animal becomes sick or injured.

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In the event the owner of such animal cannot be located, the Town or any animal control agency with whom the Town 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: Sees. 948.15, 948.16 and 948.17, Wis. Stats.

Sec. 7-1-16 Cruelty to Animals and Birds Prohibited.

(a) **Acts of Cruelty Prohibited.** No person except a law enforcement, health or humane officer in the pursuit of his duties shall, within the Town, 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 Town street from a motor vehicle or from a trailer or semi-trailer drawn by a motor vehicle.

(c) **Use of Poisonous and Controlled Substances.** No person may expose any pet animal owned by another to any known poisonous substance or controlled substance listed in Sec. 161.14, Wis. Stats., whether mixed with meat or other food or not, where it is reasonable to anticipate the substance may be eaten by such animal or for the purpose of harming the animal. This Subsection shall not apply to poison used on one's own premises and designed for the purpose of rodent and pest extermination, nor the use of a controlled substance used in accepted veterinarian practice or in research by persons or organizations regularly engaged in such research.

(d) **Use of Certain Devices Prohibited.** No person may directly or indirectly, or by aiding, abetting or permitting the doing thereof either put, place, fasten, use or fix upon or to any animal used or readied for use for a work purpose or for use in an exhibition, competition, rodeo, circus or other performance any of the following devices: a bristle bur, tack bur or like device; or a poling device used to train a horse

to jump which is charged with electricity or to which have been affixed nails, tacks or other sharp points.

(e) **Shooting at Caged or Staked Animals.** No person may instigate, promote, aid or abet as a principal, agent, employee, participant or spectator, or participate in the earnings from or intentionally maintain or allow any place to be used for the shooting, killing or wounding with a firearm or any deadly weapon any animal that is tied, staked out, caged or otherwise intentionally confined in a man-made enclosure, regardless of size.

Sec. 7-1-17 Penalties.

(a) Any person violating Sections 7-1-13, 7-1-14, 7-1-15 and 7-1-16, shall be subject to a forfeiture of not less than Fifty Dollars (\$50.00) and not more than Two Hundred Dollars

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(\$200.00). This Section shall also permit the Town 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 7-1-12 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.

Chapter 2

Fermented Malt Beverages and Intoxicating Liquor

Article A Fermented Malt Beverages and Intoxicating Liquor

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Article A: Fermented Malt Beverages and Intoxicating Liquor

Sec. 7-2-1 State Statutes Adopted.

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

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

Sec. 7-2-2 Definitions.

As used in this Chapter the terms "Alcoholic Beverages," "Intoxicating Liquors," "Principal Business," "Legal Drinking Age", "Premises," "Sell," "Sold," "Sale,"

"Restaurant," "Club," "Retailer," "Person," "Fermented Malt Beverages," "Wholesalers," "Retailers," "Operators," and "Non-Intoxicating Beverages" shall have the meaning given them by Chapter 125, Wisconsin Statutes.

Sec. 7-2-3 License Required.

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

Sec. 7-2-4 Classes of Licenses.

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

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(b) **Retail "Class B" Intoxicating Liquor License.** A retail "Class B" intoxicating liquor license, when issued by the Town Clerk under authority of the Town Board, shall permit its holder to sell, deal and traffic in intoxicating liquors to be consumed by the glass only on the premises so licensed and in the original package or container in multiples not to exceed four (4) liters at 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.

(c) **Class "A" Fermented Malt Beverage Retailer's License.** A Class "A" retailer's fermented malt beverage license, when issued by the Town Clerk under the authority of the Town Board, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only for consumption away from the premises where sold and in the original packages, containers or bottles. Such license may be issued after July 1st. The license shall expire on the following June 30th.

(d) **Class "B" Fermented Malt Beverage Retailer's License.**

(1) **License.** A Class "B" fermented malt beverage retailer's license, when issued by the Town Clerk under the authority of the Town Board, shall entitle the holder thereof to possess, sell or offer for sale, fermented malt beverages, either to be consumed upon the premises where sold or away from such premises. The holder may also sell beverages containing less than one-half (1/2) of a percentum of alcohol by volume, without obtaining a special license to sell such beverages. Such license may be issued after July 1st. The license shall expire on the following June 30th.

(2) **Application.** Class "B" licenses may be issued to any person qualified under Sec. 125.04(5), Wis. Stats. Such licenses may not be issued to any person acting as agent for or in the employ of another except that this restriction does not apply to a hotel or restaurant which is not a part of or located on the premises of any mercantile establishment, or to a bona fide club, society or lodge that has been in existence for at least six (6) months before the date of application. A Class "B" license for a hotel,

restaurant, club, society or lodge may be issued in the name of an officer who shall be personally responsible for compliance with this Chapter. Except as provided in Sec. 125.31, Wis. Stats., Class "B" licenses may not be issued to brewers or fermented malt beverages wholesalers.

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

(1) **License.** As provided in Sec. 125.26(1) and (6), Wis. Stats., temporary Class "B" fermented malt beverage licenses may be issued to bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six (6) months before the date of application and to posts of veterans' organizations authorizing the sale of fermented malt beverages at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. A license issued to a county or district fair licenses the entire fairgrounds where the fair is being conducted and Fermented Malt Beverages and Intoxicating Liquor

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all persons engaging in retail sales of fermented malt beverages from leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of fermented malt beverages from the stands while the fair is being held. Such license is valid for dates as approved by the Town Board.

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

Wine License.

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

leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of wine containing not more than six percent (6%) alcohol by volume from the stands while the fair is being held.

(2) **Application.** Application for such license shall be signed by the president or corresponding officer of the society or association making such application and shall be filed with the Town Clerk together with the appropriate license fee for each day for which the license is sought. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a forfeiture of Two Hundred Dollars (\$200.00) and will be ineligible to apply for a temporary "Class B" wine license for one (1) year. The license shall specify the hours and dates of license Fermented Malt Beverages and Intoxicating Liquor

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validity. The application shall be filed a minimum of fifteen (15) days prior to the meeting of the Town Board at which the application will be considered for events of more than three (3) consecutive days. If the application is for a license to be used in a Town park, the applicant shall specify the main point of sale facility.

(g) **Wholesaler's License.** A wholesaler's fermented malt beverage license, when issued by the Town Clerk under authority of the Town Board, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only in original packages or containers to dealers, not to be consumed in or about the premises of said wholesaler, (h) **Retail "Class C" Licenses.**

(1) In this Subsection, "barroom" means a room that is primarily used for the sale or consumption of alcohol beverages.

(2) A "Class C" license authorizes the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold.

(3) A "Class C" license may be issued to a person qualified under Sec. 125.04(5), Wis. Stats., for a restaurant in which the sale of alcohol beverages accounts for less than fifty percent (50%) of gross receipts and which does not have a barroom if the municipality's quota prohibits the municipality from issuing a "Class B" license to that person. A "Class C" license may not be issued to a foreign corporation or a person acting as agent for or in the employ of another.

(4) A "Class C" license shall particularly describe the premises for which it is issued.

Cross Reference: Section 7-2-17.

Sec. 7-2-5 License Fees.

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

(a) **Class "A" Fermented Malt Beverages Retailer's License.** The annual fee for this license shall be in accordance with the Town Board's current fee schedule. The fee for a license for less than twelve (12) months shall be prorated according to the number of months or fraction thereof for which the license is issued.

(b) Class "B" Fermented Malt Beverage License.

(1) The annual fee for this license shall be in accordance with the Town Board's current fee schedule. 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.

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(2) A Class "B" fermented malt beverages license may also be issued to bona fide clubs, lodges or societies that have been in existence for at least six (6) months before the date of application and to posts of veterans' organizations authorizing the sale of fermented malt beverages at a particular picnic or similar gathering and at a meeting of the post. The fee for the license shall be as prescribed by the Town's Fee Schedule.

(c) **Temporary Class "B" Fermented Malt Beverage License.** The fee for this license shall be per event in accordance with the Town Board's current fee schedule.

(d) **Temporary "Class B" Wine License.** The fee for this license shall be per event in accordance with the Town Board's current fee schedule. However, there shall be no fee if the Temporary Wine License is obtained along with a Temporary Fermented Malt Beverage License.

(e) **Fermented Malt Beverage Wholesalers' License.** The annual fee for this license shall be in accordance with the Town Board's current fee schedule.

(f) **"Class A" Intoxicating Liquor Retailer's License.** The annual fee for this license shall be in accordance with the Town Board's current fee schedule.

(g) **"Class B" Intoxicating Liquor Retailer's License.** The annual fee for this license shall be in accordance with the Town Board's current fee schedule. 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.

Sec. 7-2-6 Application for License.

(a) **Contents.** Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on the form prescribed by the Wisconsin Department of Revenue and shall be sworn to by the applicant as provided by Sees. 887.01 to 887.04, Wis. Stats., and shall be filed with the Town Clerk not less than fifteen (15) days prior to the granting of such license. The premises shall be physically described to include every room and storage space to be covered by the license, including all rooms not separated by a solid wall or joined by connecting entrances.

(b) **Corporations.** Such application shall be filed and sworn to by the applicant if an individual, by the president and secretary, of a corporation.

(c) **Publication.** The Town Clerk shall publish each application for a Class "A", Class "B", "Class A" or "Class B" or "Class C" license. There is no publication requirement for temporary Class "B" picnic beer licenses under Sec. 125.26, Wis. Stats., or temporary "Class B" picnic wine licenses under Sec. 125.51(10), Wis. Stats. The application shall be published once in the official Town 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.

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(d) **Amending Application.** Whenever anything occurs to change any fact set out in the application of any licensee, such licensee shall file with the issuing authority a notice in writing of such change within ten (10) days after the occurrence thereof.

(e) **License Quotas.** Retail intoxicating liquor licenses issued by the Town Board shall be limited in number to the quota prescribed by state law.

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

(a) **Residence Requirements.** A retail Class "A" or Class "B" fermented malt beverage or "Class A" or "Class B" intoxicating liquor license shall be granted only to persons, or their agents, who are citizens of the United States and who have been residents of the State of Wisconsin and Fond du Lac County continuously for at least ninety (90) days prior to the date of the application.

(b) **Applicant to have Malt Beverage License.** No retail "Class B" intoxicating liquor license shall be issued to any person who does not have or to whom is not issued a Class "B" retailer's license to sell fermented malt beverages.

(c) **Right to Premises.** No applicant will be considered unless he has the right to possession of the premises described in the application for the license period, by lease or by deed.

(d) **Age of Applicant.** Licenses related to alcohol beverages shall only be granted to persons who have attained the legal drinking age.

(e) Corporate Restrictions.

(1) No license or permit may be issued to any corporation unless the corporation meets the qualifications under Sec. 125.04(a)1 and 4 and (b), Wis. Stats., unless the agent of the corporation appointed under Sec. 125.04(6) and the officers and directors of the corporation meet the qualifications of Sec. 125.04(a)1 and 3 and (b) and unless the agent of the corporation appointed under Sec. 125.04(6) meets the qualification under Sec. 125.04(a)2. The requirement that the corporation meet the qualifications under Sec. 125.04(a)1 and (b) does not apply if the corporation has terminated its relationship with all of the individuals whose actions directly contributed to the conviction.

(2) Each corporate applicant shall file with its application for such license a statement by its officers showing the names and addresses of the persons who are stockholders together with the amount of stock held by such person or persons. It shall be the duty of each corporate applicant and licensee to file with the Town Clerk a statement of transfers of stock within forty-eight (48) hours after such transfer of stock.

(3) Any license issued to a corporation may be revoked in the manner and under the procedure established in Sec. 125.12, Wis. Stats., when more than fifty percent (50%) of the stock interest, legal or beneficial, in such corporation is held by any person or persons not eligible for a license under this Chapter or under the state law.

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(0) **Sales Tax Qualification.** All applicants for retail licenses shall provide proof, as required by Sec. 77.61(11), Wis. Stats., that they are in good standing for sales tax purposes (i.e., hold a seller's permit) before they may be issued a license.

(g) **Separate License Required for Each Place of Sale.** A separate license shall be required for each stand, place, room or enclosure or for each suite of rooms or enclosures which are in a direct connection or communication where intoxicating liquor or fermented malt beverages are kept, sold or offered for sale; and no license shall be issued to any person, firm, partnership, corporation or association for the purpose of possession, selling or offering for sale any intoxicating liquors or fermented malt beverages in any dwelling house, flat or residential apartment.

(h) **Residential Areas.** No "Class B" fermented malt beverage license may be issued for any premises where forty percent (40%) or more of the property fronting on both sides of the same street in the same block whereon the premises is located is used for residence purposes if a written objection is filed with the Town Clerk signed by owners of more than eighty percent (80%) of such residence property.

(i) **Off-Street Parking Facilities.** No "Class B" intoxicating liquor license shall be issued for any premises unless said premises provides off-street parking stalls equal in number to fifty percent (50%) of the number of patrons which said premises may lawfully accommodate. This restriction shall not apply in the case of renewal licenses issued for premises licensed as of the date of the enactment of this Subsection.

(j) **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.

(k) **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 premises where other business is conducted by a secondary doorway that serves as a safety exit and is not the primary entrance to the Class "B" premises. No other business may be conducted on premises operating under a Class "B" license or permit. These restrictions do not apply to any of the following:

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

Sec. 7-2-8 Investigation.

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

Sec. 7-2-9 Approval of Application.

(a) No license shall be granted for operation on any premises or with any equipment for which taxes, assessments, forfeitures or other financial claims of the Town are delinquent and unpaid.

(b) No license shall be issued unless the premises conform to the sanitary, safety and health requirements of the State Building Code, and the regulations of the State Board of Health and local Board of Health applicable to restaurants. The premises must be properly lighted and ventilated, must be equipped with separate sanitary toilet and lavatory facilities equipped with running water for each sex and must conform to all Ordinances of the Town.

(c) Consideration for the granting or denial of a license will be based on:

(1) Arrest and conviction record of the applicant, subject to the limitations imposed by Sees. 111.321, 111.322, and 111.335, Wis. Stats.;

(2) The financial responsibility of the applicant;

(3) The appropriateness of the location and the premises where the licensed business is to be conducted; and

(4) Generally, the applicant's fitness for the trust to be reposed.

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

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

(a) In the event the application is for a "Class A" or a "Class B" intoxicating liquor license at a site not previously licensed under this Chapter, the Town Clerk shall schedule public hearings before the Town Board on the granting of the licenses and shall notify all property owners situated in the block of the site for which the license is sought and all property owners within a radius of three hundred (300) feet of the proposed site of the dates of the hearings. The notice shall be given at least ten (10) days before the hearing and may be given by mail.

(b) Opportunity shall be given by the governing body to any person to be heard for or against the granting of any license. Upon the approval of the applicant by the Town Board, the Town Clerk shall issue to the applicant a license, upon payment by the applicant of the license fee to the Town. The full license fee shall be charged for the whole or fraction of any year.

(c) If the Town Board denies the license, the applicant shall be notified in writing, by registered mail or personal service, of the reasons for the denial. The notice shall also inform the applicant of the opportunity to appear before the Town Board and to provide evidence as to why the denial should be reversed. In addition, the notice shall inform the applicant that the reconsideration of the application shall be held in closed session, pursuant to Sec. 19.85(1)(b), Wis. Stats., unless the applicant requests such reconsideration be held in open session and the Town Board consents to the request. Such written notice shall be mailed or served upon the applicant at least ten (10) days prior to the Town Board meeting at which the application is to be reconsidered.

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

(a) In accordance with the provisions of Sec. 125.04(12), Wis. Stats., a license shall be transferable from one premises to another if such transfer is first approved by the Town Board. An application for transfer shall be made on a form furnished by the Town Clerk. Proceedings for such transfer shall be had in the same form and manner as the original application. The fee for such transfer is Ten Dollars (\$10.00).

Whenever a license is transferred, the Town Clerk shall forthwith notify the Wisconsin Department of Revenue of such transfer. In the event of the sale of a business or business premises of the licensee, the purchaser of such business or business premises must apply to the Town for reissuance of said license and the Town, as the licensing authority, shall in no way be bound to reissue said license to said subsequent purchaser.

(b) Whenever the agent of a corporate holder of a license is for any reason replaced, the licensee shall give the Town Clerk written notice of said replacement, the reasons therefor and the new appointment. Until the next regular meeting or special meeting of the Town Board, the successor agent shall have the authority to perform the functions and be charged with the duties of the original agent. However, said license shall cease to be in effect upon

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receipt by the Town Clerk of notice of disapproval of the successor agent by the Wisconsin Department of Revenue or other peace officer of the municipality in which

the license was issued. The corporation's license shall not be in force after receipt of such notice or after a regular or special meeting of the Town Board until the successor agent or another qualified agent is appointed and approved by the Town.

Sec. 7-2-12 Numbering of License.

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

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

(a) Every person licensed in accordance with the provisions of this Chapter shall immediately post such license and keep the same posted while in force in a conspicuous place in the room or place where said beverages are drawn or removed for service or sale.

(b) It shall be unlawful for any person to post such license or to be permitted to post it upon premises other than those mentioned in the application or knowingly to deface or destroy such license.

Sec. 7-2-14 Conditions of License.

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

(a) **Consent to Entry.** Every applicant procuring a license thereby consents to the entry of police or other duly authorized representatives of the Town at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all things and articles there had in violation of Town Ordinances or state laws, and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.

(b) **Employment of Minors.** No retail "Class B" or Class "B" licenses shall employ any underage person, as defined in the Wisconsin Statutes, but this shall not apply to hotels and restaurants. Family members may work on the licensed premises but are not permitted to sell or dispense alcoholic beverages.

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

(d) **Licensed Operator on Premises.** There shall be upon premises operated under a "Class B" or Class "B" or "Class C" license, at all times, the licensee, members of the licensee's immediate family who have attained the legal drinking age, and/or some person who shall have an operator's license and who shall be responsible for the acts of all persons serving as waiters, or in any other manner, any fermented malt beverages to customers. No person other than the licensee shall serve fermented malt beverages in any place operated under a "Class B", Class "B" or "Class C" license unless he/she possesses an operator's license, or there is a person with an operator's

license upon said premises at the time of such service.

(e) Health and Sanitation Regulations. The rules and regulations of the State Board of Health governing sanitation in restaurants shall apply to all "Class B" liquor or "Class C" licenses issued under this Chapter. No "Class B" or "Class C" license shall be issued unless the premises to be licensed conform to such rules and regulations.

(f) Restrictions Near Schools and Churches. No retail Class "A", Class "B", "Class A" or "Class B" license shall be issued for premises, the main entrance of which is less than three hundred (300) feet from the main entrance of any established public school, parochial school, hospital or church. Such distance shall be measured by the shortest route along the highway from the closest point of the maintenance entrance of such school, church or hospital to the main entrance to such premises. This Subsection shall not apply to premises licensed as such on June 30, 1947, nor shall it apply to any premises licensed as such prior to the occupation of real property within three hundred (300) feet thereof by any school building, hospital building or church building.

(g) Clubs. No club shall sell or give away any intoxicating liquors except to bona fide members and guests invited by members.

(h) 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" or "Class B" liquor or fermented malt beverage or "Class C" wine licensee shall sell or offer for sale any alcohol beverage to any person or persons by extending credit, except hotel credit extended to a resident guest or a club to a bona fide member. It shall be unlawful for such licensee or permittee to sell alcohol beverages to any person on a passbook or store order or to receive from any person any goods, ware, merchandise or other articles in exchange for alcohol beverages.

(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

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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.

(k) Improper Exhibitions. It shall be unlawful for any person to perform, or for any licensee or manager or agent of the licensee to permit any employee, entertainer or patron to engage in any live act, demonstration, dance or exhibition on the licensed premises which:

(1) Exposes his or her genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or

(2) Exposes any device, costume or covering which gives the appearance of or simulates genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or

- (3) Exposes any portion of the female breast at or below the areola thereof; or
- (4) Engages in or simulates sexual intercourse and/or any sexual contact, including the touching of any portion of the female breast or the male and/or female genitals.

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

Sec. 7-2-15 Closing Hours.

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

(a) Class "B" Licenses.

(1) No premises for which a retail "Class B" liquor or Class "B" fermented malt beverage license or "Class C" wine license has been issued shall be permitted to remain open for the sale of liquor or fermented malt beverages or for any other purpose between the hours of 2:00 a.m. and 6:00 a.m., Monday through Friday, and 2:30 a.m. and 6:00 a.m., Saturday and Sunday. There shall be no closing hours on January 1st.

(2) Hotels and restaurants, the principal business of which is the furnishing of food or lodging to patrons, bowling alleys, indoor horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business but shall not sell liquor or malt beverages during the closing hours of Subsection (a)(1) above.

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

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

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

(a) **Compliance with Eligibility Standards.** The organization shall meet the eligibility requirements of a bona fide club, association, lodge or society as set forth in Sec. 125.26(6), Wis. Stats., and shall fully comply with the requirements of this Section and Section 11-4-1. Members of an organization which is issued a temporary license and who are issued operator's licenses for the event shall attend a pre-event

informational meeting to learn what rules and regulations apply and what the responsibilities of the bartenders and organization will be.

(b) **Posting of Signs and Licenses.** All organizations issued a temporary license shall post in a conspicuous location at the main point of sale and at all remote points of sale a sufficient number of signs stating that no fermented malt beverage shall be served to any under-age person without proper identification.

(c) **Fencing.** If necessary due to the physical characteristics of the site, the Town Board may require that organizations install a double fence around the main point of sale to control ingress and egress and continually station a licensed operator, security guard or other competent person at the entrance for the purpose of checking age identification. Where possible, there shall be only one (1) point of ingress and egress. When required, the double fence shall be a minimum of four (4) feet high and a minimum of six (6) feet between fences.

(d) **Underage Persons Prohibited.** No underage persons as defined by the Wisconsin Statutes shall be allowed to assist in the sale of fermented malt beverages or wine at any point of sale, nor shall they be allowed to loiter or linger in the area of any point of sale.

(e) **Licensed Operators Requirement.** A licensed operator shall be stationed at all points of sales at all times.

(f) **Waiver.** The Town Board may waive or modify the requirements of this Section due to the physical characteristics of the licensed site.

(g) **Insurance.** The applicant for a temporary fermented malt beverage or wine license may be required to indemnify, defend and hold the Town and its employees and agents harmless against all claims, death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the license, the applicant may be required to furnish a Certificate of Comprehensive General Liability insurance with the Town of Taycheedah.

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The applicant may be required to furnish a performance bond prior to being granted the license.

Cross Reference: Section 11-4-1.

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

(a) **Procedure.** Whenever the holder of any license under this Chapter violates any portion of this Chapter or Title 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 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 Town Board. All persons issued a license to sell alcohol

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

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

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

The presence of underage persons on a licensed premises as provided under Sec. 125.07(3)(a)10,

Wis. Stats., shall be subject to the following:

(a) The licensee or agent of a corporate licensee shall notify the Town Clerk at least forty-eight (48) hours in advance of the date of any event at which underage persons will be present on the licensed premises. Each such non-alcohol event notice shall specify the date(s) on which the event is to occur and the time(s) of commencement. All notices shall be filed with the Town Clerk during normal working hours. After a non-alcohol event notice has been given, the licensee may cancel an event(s) only by giving like notice to the Town in accordance with the provisions of this Subsection. Regardless of the date given, all notices shall expire and be deemed cancelled no later than the date of expiration or revocation of the applicable retail Class "B" or "Class B" license.

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(b) During the period of any non-alcohol event a notice card prescribed by the Town shall be posted at all public entrances to the licensed premises notifying the general public that no alcohol beverages may be consumed, sold or given away on or carried into the licensed premises during the event. Such notice cards shall be made available by the Town to a requesting licensee.

(c) Once a non-alcohol event has commenced, no alcohol beverages may be consumed, sold or given away on or carried into the licensed premises until the next day following the closing hours of the licensed premises.

(d) During the period of any non-alcohol event all alcohol beverages shall be stored in a locked portion of the licensed premises in a secure place out of the sight and physical reach of any patron present and shall be under the direct and immediate control and supervision of the licensee or a licensed bartender in the employ of the licensee. All beer taps and automatic dispensers of alcohol beverages ("speed guns") shall be either disconnected, disabled or made inoperable.

Sec. 7-2-19 through Sec. 7-2-29 Reserved for Future Use.

Article B: Operator's License

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

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

(b) Use by Another Prohibited.

(1) No person may allow another to use his or her Class "A" or Class "B" license or permit to sell alcohol beverages.

(2) The license or permit of a person who violates Subsection (b)(1) above shall be revoked.

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

Sec. 7-2-31 Procedure Upon Application.

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

(b) All applications are subject to an investigation by law enforcement authorities and/or other appropriate authority to determine whether the applicant and/or premises to be licensed complies with all regulations, ordinances and laws applicable thereto.

These authorities may conduct an investigation of the applicant including, but not limited to, requesting

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

Sec. 7-2-32 Duration.

Licenses issued under the provisions of this Chapter shall be valid for a period of one

(1) year and shall expire on the thirtieth (30th) day of June of each even year.

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

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

(b) **Provisional License.** The Town Clerk 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 Town Clerk may, upon receiving an application for a temporary provisional license, issue such a license without requiring the successful completion of the approved program as described herein. However, such temporary license shall be used only for the purpose of allowing such applicant the privilege of being licensed as a beverage operator pending his successful completion of the approved program. A provisional license may not be issued to any person who has been denied an operator's license by the Town Board or who has had his operator's license revoked or suspended within the preceding twelve (12) months. The Town Clerk shall provide an appropriate application form to be completed in full by the applicant. The Town Clerk may revoke the provisional license issued if he discovers that the holder of the license made a false statement on the application.

(c) **Temporary License.** The Town Clerk may issue a temporary operator's license, at no fee, provided that:

(1) This license may only be issued to operators employed by, or donating their services to, nonprofit corporations and organizations.

(2) No person may hold more than one (1) license of this kind per year.

(3) The license is valid for any period from one (1) day to fourteen (14) days, and the period for which it is valid shall be stated on the license.

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

(a) After the Town Board approves the granting of an operator's license, the Town Clerk shall issue the license. Such licenses shall be issued and numbered in the order they are granted and shall give the applicant's name and address and the date of the expiration of such license.

(b) (1) If the application is denied by the Town Board, the Town Clerk shall, in writing, inform the applicant of the denial, the reasons therefore, and of the opportunity to request a reconsideration of the application by the Town Board in a closed session. Such notice must be sent by registered mail to, or served upon, the applicant at least ten (10) days prior to the Board's reconsideration of the matter. At such reconsideration hearing, the applicant may present evidence and testimony as to why the license should be granted.

(2) If, upon reconsideration, the Board again denies the application, the Town Clerk shall notify the applicant in writing of the reasons therefore. An applicant who is denied any license upon reconsideration of the matter, may apply to Circuit Court

pursuant to Sec. 125.12(2)(d), Wis. Stats., for review.

(c) (1) Consideration for the granting or denial of a license will be based on:

a. Arrest and conviction record of the applicant, subject to the limitations imposed by Sees. 111.321, 111.322, and 111.335, Wis. Stats.; b. The financial responsibility of the applicant; c. The appropriateness of the location and the premises where the licensed business

is to be conducted; and

d. Generally, the applicant's fitness for the trust to be reposed.

(2) If a licensee is convicted of an offense substantially related to the licensed activity, the Town Board may act to revoke or suspend the license.

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

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Sec. 7-2-35 Training Course.

(a) Except as provided in Subsection (b) below, the Town Board may not issue an operator's license unless the applicant has successfully completed a responsible beverage server training course at any location that is offered by a vocational, technical and adult education district and that conforms to curriculum guidelines specified by the board of vocational, technical and adult education or a comparable training course that is approved by the educational approval board or unless the applicant fulfills one of the following requirements:

(1) The person is renewing an operator's license.

(2) Within the past two (2) years, the person held a Class "A", Class "B", "Class A", "Class B" or "Class C" license or permit or a manager's or operator's license.

(3) Within the past two (2) years, the person has completed such a training course.

(b) The Town Board may issue a provisional operator's license to a person who is enrolled in a training course under Subsection (a) above and shall revoke that license if the applicant fails successfully to complete the course in which he or she enrolls.

(c) The Town Board 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

Sec. 7-2-40 Penalties.

(a) Forfeitures for violations of Sees. 125.07(1)-(5) and 125.09(2) of the Wisconsin Statutes, adopted by reference in Section 7-2-1 of the Code of Ordinances of the Town of Taycheedah, shall conform to the forfeiture penalty permitted to be imposed for violations of the comparable State Statute, including any variations or increases for subsequent offenses.

(b) Any person who shall violate any provision of this Chapter of the Code of Ordinances of the Town of Taycheedah, except as otherwise provided in Subsection (a) herein or who shall conduct any activity or make any sale for which a license is required without a license, shall be subject to a forfeiture as provided in the general penalty section of this Code of the Town of Taycheedah.

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

Chapter 3

Cigarette License

7-3-1 Cigarette License

Sec. 7-3-1 Cigarette License.

(a) **License Required.** No person, firm or corporation shall, in any manner, directly or indirectly, upon any premises, or by any device, sell, exchange, barter, dispose of or give away, or keep for sale, any cigarette, cigarette paper or cigarette wrappers, or any substitute therefor, without first obtaining a license as hereinafter provided.

(b) **Application for License; Fee.** Every person, firm or corporation desiring a license under this Section shall file with the Town Clerk a written application therefor, stating the name of the person and the place for which such license is desired. Each license shall be filed by the Town Clerk and shall name the licensee and the place wherein he/she is authorized to conduct such business, and the same shall not be delivered until the applicant shall pay to the Town Clerk a license fee in accordance with the Town Board's current fee schedule.

(c) **Issuance and Term of License.** Licenses for the sale, exchange, barter, disposition of, or giving away or keeping for sale of cigarette paper or cigarette

wrappers or any substitute therefor shall be issued by the Town Clerk. Each license shall be issued on the first day of July in each year, or thereafter whenever applied for, and shall continue in force from date of issuance until the succeeding June 30th unless sooner revoked for any violation of this Section.

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

Chapter 4

Transient Merchants

7-4-1 Registration Required

7-4-2 Definitions

7-4-3 Exemption

7-4-4 Registration

7-4-5 Investigation

7-4-6 Appeal

7-4-7 Regulation of Transient Merchants

7-4-8 Revocation of Registration

Sec. 7-4-1 Registration Required.

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

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. The term shall include, but not be limited to, peddlers, solicitors and transient merchants. The sale of goods includes donations required by the transient merchant for the retention of goods by a donor or prospective customer. For purposes of this Section, sale of merchandise includes a sale in which the personal services rendered upon or in connection with the merchandise constitutes the greatest part of value for the price received, but does not include a farm auction sale conducted by or for a resident farmer of personal property used on the farm, or the sale of produce or other perishable products at retail or wholesale by a resident of the State of Wisconsin.

(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 Town; or
- (2) Has continuously resided in the Town and now does business from his residence.

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(c) **Merchandise** shall include personal property of any kind, and shall include merchandise, goods, or materials provided incidental to services offered or sold. The sale of merchandise includes donations required by the seller for the retention of merchandise by a donor or prospective customer.

(d) **Charitable Organization** shall include any benevolent, philanthropic, religious,

patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such, including, for example, Boy Scouts, Girl Scouts, 4-H Clubs and school organizations.

(e) **Clerk** shall mean the Town Clerk of the Town of Taycheedah, or his/her designee.

(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.

Sec. 7-4-3 Exemptions.

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

- (a) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes;
- (b) Any person selling merchandise at wholesale to dealers in such merchandise;
- (c) Any person selling Wisconsin agricultural products which the person has grown;
- (d) 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) Any person who has an established place of business where the merchandise being sold or is offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested, a home visit by, said person;
- (f) 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) Any person selling or offering for sale a service unconnected with the sale or offering for sale of merchandise;
- (h) 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) Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization, provided that there is submitted to the Town Clerk proof that such charitable organization is registered under Sec. 440.41, Wis. Stats. Any charitable organization engaging in the sale of merchandise and not registered under Sec. 440.41, Wis. Stats., or which is exempt from that statute's registration requirements, shall be required to register under this Chapter.
- (j) Any person who claims to be a permanent merchant, but against whom complaint has been made to the Town Clerk that such person is a transient merchant, provided that there is submitted to the Town Clerk proof that such person has leased for at least one (1) year, or

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purchased, the premises from which he/she is conducting business, or proof that such person has conducted such business within a five (5) mile radius of the Town for at least

one (1) year prior to the date complaint was made.

(k) Any individual licensed by an examining board as defined in Sec. 15.01(7), Wis. Stats. (1) This Chapter does not apply to transient merchants while doing business at special events

authorized by the Town Board, (m) Minors under eighteen (18) years of age who are residents of the School District(s) in the

Town.

Sec. 7-4-4 Registration.

(a) **Registration Information.** Applicants for registration must complete and return to the Town Clerk a registration form furnished by the Clerk which shall require the following information:

- (1) Name, permanent address and telephone number, and temporary address, if any;
- (2) Height, weight, color of hair and eyes, and date of birth;
- (3) Name, address and telephone number of the person, firm, association or corporation that the transient merchant represents or is employed by, or whose merchandise is being sold;
- (4) Temporary address and telephone number from which business will be conducted, if any;
- (5) Nature of business to be conducted and a brief description of the merchandise offered and any services offered;
- (6) Proposed method of delivery of merchandise, if applicable;
- (7) Make, model and license number of any vehicle to be used by applicant in the conduct of his business;
- (8) Last cities, villages, towns, not to exceed three (3), where applicant conducted similar business just prior to making this registration.
- (9) Place where applicant can be contacted for at least seven (7) days after leaving this Town;
- (10) Statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's transient merchant business within the last five (5) years, the nature of the offence and the place of conviction.

(b) **Identification and Certification.** Applicants shall present to the Town Clerk for examination:

- (1) A driver's license or some other proof of identity as may be reasonably required;
- (2) A state certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighing and measuring devices approved by state authorities;

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- (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 and Investigation Fee.**

- (1) At the time of filing applications, a registration fee in accordance with the Town Board's current fee schedule shall be paid to the Town Clerk to cover the cost of

investigation of the facts stated in the applications and for processing said registration. Every member of a group must file a separate registration form.

(2) The applicant shall sign a statement appointing the Town Clerk his agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant, in the event the applicant cannot, after reasonable effort, be served personally.

(3) Upon payment of said fees and the signing of said statement, the Town Clerk shall register the applicant as a transient merchant and date the entry. Said registration shall be valid for a period of one (1) year from the date of entry, subject to subsequent refusal as provided in Sec. 7-4-5(b) below.

(d) **License; Fees.** Except as provided by Section 7-4-3, no person shall conduct any activity as a transient merchant without a license. Every applicant for a license shall pay a license fee as follows:

(1) **Annual License.** The fee for an annual license shall be in accordance with the Town Board's current fee schedule which shall be paid to the Town Clerk. Such license shall be for a calendar year and shall expire on December 31 following its issuance, provided however, that the fee shall be one-half (1/2) of the amount stipulated for a calendar year if it is issued on or after July 1 of any year.

(2) **Daily License.** The daily license fee shall be in accordance with the Town Board's current fee schedule per day which shall be paid to the Town Clerk. The license shall set forth the exact days on which such business may be carried out.

Sec. 7-4-5 Investigation.

(a) Upon receipt of each application, the Town Clerk may refer it to the Sheriffs Department, or other appropriate law enforcement agency, for an investigation of the statements made in such registration, said investigation to be completed within seven (7) days from the time of referral.

(b) The Town Clerk shall refuse to register the applicant and issue a permit if it is determined, pursuant to the investigation above, that: the application contains any material omission or materially inaccurate statement; complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns, not exceeding

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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 Town Board or, if none has been adopted, under the provisions of Sees. 68.07 through 68.16, Wis. Stats.

Sec. 7-4-7 Regulation of Transient Merchants.

(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 visit, his identity or the identity of the organization he represents. A charitable organization transient merchant shall specifically disclose what portion of the sale price of merchandise being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the merchandise.

(3) No transient merchant shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.

(4) No transient merchant shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a one hundred (100) foot radius of the source.

(5) No transient merchant shall allow rubbish or litter to accumulate in or around the area in which he is conducting business.

(b) Disclosure Requirements.

(1) After the initial greeting and before any other statement is made to a prospective customer, a transient merchant shall expressly disclose his name, the name of the
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company or organization he is affiliated with, if any, and the identity of merchandise or services he offers to sell.

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

(3) If the transient merchant takes a sales order for the later delivery of merchandise, he shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance, whether full, partial or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date and whether a guarantee or warranty is provided and, if so, the terms thereof.

Sec. 7-4-8 Revocation of Registration.

(a) Registration may be revoked by the Town Board after notice and hearing if the registrant made any material omission or materially inaccurate statement in the

application for registration, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales, violated any provision of this Chapter or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling.

(b) Written notice of the hearing shall be served personally or pursuant to Section 7-4-4(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.

Chapter 5

Use of Explosives; Blasting Activities

7-5-1 Authority and Purpose

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Sec. 7-5-1 Authority and Purpose.

(a) **Authority.** This Chapter is adopted pursuant to the police powers granted to the Town under Chapter 60, Wis. Stats.

(b) **Purpose.** The purpose of this Chapter is to:

- (1) Protect the health, welfare and safety of Town residents;
- (2) Protect public and private property located within the Town;
- (3) Regulate the use of explosive materials and establish uniform limits on the permissible levels of blasting resultants to reasonably assure that blasting resultants do not cause injury, damage or nuisance to persons or property.

Sec. 7-5-2 Definitions.

(a) The following definitions shall apply in this Chapter. Terms not herein defined shall be understood to have their usual and ordinary dictionary meaning:

(1) **Alrblast.** An airborne shock wave resulting from the detonation of explosives.

(2) **Approves.** Approval granted by the Town of Taycheedah.

(3) **Blaster.** Any individual holding a valid blaster's license issued by the Wisconsin Department of Industry, Labor and Human Relations.

(4) **Blasting.** Any method of loosening, moving or shattering means of solid matter by use of an explosive.

(5) **Blasting Operation.** Any operation, enterprise or activity involving the use of blasting.

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(6) **Blasting Resultants.** The physical manifestations of forces released by blasting, including, but not limited to, projectile matter, vibration and concussion, which might cause injury, damage or unreasonable nuisance to persons or property located outside the controlled blasting site area.

- (7) *Community*. A built-up inhabited area.
- (8) **Permitted Explosives Use Area**. The area that surrounds a blasting site and:
- Is owned by the operator; or
 - With respect to which, because of property ownership, employment, relationship or agreement with the property owner, the operator can take reasonably adequate measures to exclude or to assure the safety of persons and property.
- (9) **Detonator**. Any device containing a detonating charge that is used for initiating detonation in an explosive. The term includes, but is not limited to, electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses, detonating cord delay connectors, and non-electric instantaneous and delay blasting caps.
- (10) **Department**. The Wisconsin Department of Industry, Labor and Human Relations.
- (11) **Electric Blasting Cap**. A blasting cap designed for, and capable of, initiation by means of an electric current.
- (12) **Explosion**. The substantially instantaneous release of both gas and heat.
- (13) **Explosive**. Any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion unless the compound, mixture or device is otherwise classified by the Department by rule.
- (14) **Explosive Materials**. Explosives, blasting agents and detonators. The term includes, but is not limited to, dynamite and other high explosives, slurries, emulsions, water gels, blasting agents, black power, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord and igniters.
- (15) **Flyrock**. Rock that is propelled through the air from a blast.
- (16) **Ground Vibration**. A shaking of the ground caused by the elastic wave emanating from a blast.
- (17) **Highway**. Any public street, public alley or public road.
- (18) **Inhabited Building**. A building regularly occupied in whole or in part as a habitation for human beings, or any church, schoolhouse, railroad station, store or other structure where people are accustomed to assemble, except any building or structure occupied in connection with the manufacture, transportation, storage or use of explosive materials.
- (19) **Particle Velocity**. Any measure of ground vibration describing the velocity at which a particle of ground vibrates when excited by a seismic wave.
- (20) **Person**. Any individual, corporation, company, association, firm, partnership, society or joint stock company.
- (21) **Powder Factor**. Any ratio between the amount of powder loaded and the amount of rock broken.
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- (22) **Primer**. A capped fuse, electric detonator or any other detonating device inserted in or attached to a cartridge of explosive.
- (23) **Stemming**. The inert material, such as drill cutting, used in the collar portion or elsewhere of a blast hole to confine the gaseous products of detonation.
- (24) **Nuisance**. An injurious effect on the safety, health, or morals of the public, or

use of property which works some substantial annoyance, inconvenience, or injury to the public and which causes hurt, inconvenience, or damage.

(25) *Town.* The Town of Taycheedah, Fond du Lac County, Wisconsin.

Sec. 7-5-3 Regulation of Explosive Materials and Blasting.

(a) General.

(1) *General Permit(s) Required.* No person shall handle or use explosive materials in the Town of Taycheedah unless he: a. Possesses a valid State of Wisconsin blaster's license with the proper classification or is supervised by a holder of a valid State of Wisconsin blaster's license with the proper classification; and

(2) *Firearms Exception.* For purposes of this Chapter, blasting does not include the discharge of firearms for hunting.

(b) **Town Permit Requirements.** No person shall handle, use or cause explosives to be detonated within the Town of Taycheedah without an explosives use permit issued by the Town of Taycheedah, as hereafter set forth, to such person, his supervisor or employer:

(1) *Application.* Applications for an explosives use permit shall be in writing upon forms provided by the Town Clerk. Applications shall be accompanied by a permit fee in accordance with the Town Board's current fee schedule. Permits shall be issued on an annual basis commencing January 1 and ending on December 31. Applications may be made by and permits issued to the blasting business, provided that the person doing the blasting or responsible for such blasting shall hold a valid Wisconsin blaster's license with proper classification. The application will identify the licensed blasters operating under the permit and the blasting locations within the Town of Taycheedah.

(2) *Financial Assurance.* Each application for an explosives use permit as herein stated, or a renewal thereof, shall be accompanied by a certificate of insurance evidencing comprehensive general public liability insurance against claims for bodily injury, death, or property damage arising out of the blasting operation; such insurance to afford protection to the Town of Taycheedah and its residents of not less than One Million Dollars (\$1,000,000) with respect to bodily injury or death to any one (1) person, not less than Three Million Dollars (\$3,000,000) with respect to any one (1) accident, and not less than One Hundred Thousand Dollars (\$100,000) with respect to property damage. The certificate of insurance shall name the Town of Taycheedah Use of Explosives; Blasting Activities

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and its residents as additional insureds under the relevant policy. Any insurance which the blaster is obligated to carry under the terms of this Chapter may be carried under so-called "blanket" policies covering other properties or liabilities of the blaster, provided, that such blanket policies otherwise comply with the provisions of this Subsection. Each insurance policy shall provide that it shall not be cancelled by the insurance company, except after not less than ninety (90) days' notice to the Town, in writing, by registered or certified mail. Not less than thirty (30) days prior to the expiration of the ninety (90) day notice of cancellation, the blaster must deliver to

the Town a replacement insurance policy in absence of which all blasting shall cease. The liability insurance must be issued by a company licensed by the State of Wisconsin to issue the policy. The Town Board reserves the right to increase the amount of the insurance policy depending on the circumstances of the blasting activity.

(3) **Explosives Use Plan.** Each application for an explosives use permit or a renewal thereof shall include a written description of the total area within which explosives are proposed to be used, blasting procedures to be employed, including types of explosives, initiating systems, and an aerial photograph or drawing acceptable to the Town Board with a scale of no less than one (1) inch equals one hundred (100) feet and having an overlaying grid of fifty (50) feet by fifty (50) feet which accurately includes all areas and inhabited buildings within five hundred (500) feet of all proposed blasting areas.

(4) **Hours of Operation.** Blasting shall only be conducted between 9:00 a.m. and 4:00 p.m. on Monday through Friday, provided, however, that in the event an emergency has delayed a blast beyond 4:00 p.m., a loaded hole may be blown within a reasonable time thereafter. Blasting shall not be conducted at other times or on Sundays or legal holidays without written permission from the Town Board or its designee, which shall only be granted upon a showing of extreme need.

(5) **Blasting Log.** An accurate blasting log shall be prepared and maintained for each blast fired, and a true and complete copy of said log shall be supplied to the Town Clerk within seven (7) working days of the initiation of the blast. The Town may require that the permittee furnish to the Town an analysis of any particular blasting log to be prepared by the permittee. In the event the permittee cannot or will not prepare a reliable analysis, the Town may obtain such analysis from an independent expert. The permittee shall be liable for the reasonable cost of such analysis if it is determined after an opportunity to be heard that this requirement was violated by the permittee. Each blasting log shall include, but not be restricted to, the following information:

a. Name and license number of blaster in charge of blast; b. Blast location with grid coordinate references to the supplied aerial photograph or drawing of the explosives use area; c. Date and time of blast;

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d. Weather conditions at time of blast;

e. Diagram and cross-section of blast hole layout;

f. Number of blast holes;

g. Blast hole depth and diameter;

h. Spacing and burden of blast holes;

i. Maximum holes per delay;

j. Maximum pounds of explosives per delay;

k. Depth and type of stemming used;

l. Total pounds of explosives used, including primers and initiating cord;

m. Distance to nearest inhabited building not owned by permittee;

n. Type of initiation system used;

- o. Seismographic and airblast information, which shall include:
 1. Type of instrument and last calibration date;
 2. Exact location of instrument and date, time and distance from the blast,
 3. Name and company affiliation of person taking reading;
 4. Name of the person and firm analyzing the seismographic and airblast data when required;
 5. Vibrations and airblast levels recorded; and
 6. Copy of the seismograph printout.

Sec. 7-5-4 Temporary Permits.

(a) **Temporary Permit Requirements.** The Town Clerk or Building Permit Issuer upon receipt of a properly completed temporary permit application form, may issue a temporary permit to allow for special construction or demolition activities requiring the use of explosives. Temporary permits shall be issued for a duration of fourteen (14) consecutive working days. The Town Board, in its discretion, may grant one (1) fourteen (14) day extension. Only one (1) temporary permit [and one (1) renewal] can be issued for any given site within the year of permit issuance. Applicants for temporary permits are required to provide financial assurance as specified in Section 7-5-4(b) and provide notice to all neighbors within five hundred (500) feet of the special construction or demolition activity.

(b) **Temporary Permit Categories.** Permits shall be in the following categories:

(1) **Road, Sewer, Heavy Construction.** The fee shall not exceed Five Hundred Dollars (\$500.00) determined by the Town Board based on the explosive use plan submitted by contractor or blaster.

(2) **Construction Authorized by Town Board.** Construction authorized by the Town Board for town use is exempt from the fee. Applicants for these permits are required to file financial assurances as specified in Section 7-5-3(b) and provide notice to all neighbors within five hundred (500) feet.

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(3) **Construction.** This category includes home building, septic systems, swimming pools, etc. The fee is included in the building permit. If blasting becomes necessary after the issuance of a building permit, a fee in accordance with the Town Board's current fee schedule will be assessed for the blasting permit. No bond is required. However, proof of insurance and notice to all neighbors within five hundred (500) feet is required.

(4) **Agricultural.** This category includes stump removal, silo demolition, manure pits, etc. The fee shall be a fee in accordance with the Town Board's current fee schedule for the permit. No bond is required. However, proof of insurance and notice to all neighbors within five hundred (500) feet is required.

Sec. 7-5-5 Regulation of Blasting Resultants.

(a) **Purpose of Section.** It is the purpose of this Section to provide for the establishment of uniform limits on permissible levels of blasting resultants to reasonably assure that blasting within the Town does not cause injury, damage or a nuisance to persons or property outside and beyond the permitted explosives use area.

(b) **Instrumentation.** All blast-monitoring instruments used to produce data to

support compliance with this Subsection shall meet the following minimum specifications:

- (1) **Seismic frequency range.** Two (2) to two hundred (200) Hz (+ 3 Hz).
 - (2) **Acoustic frequency range.** Two (2) to two hundred (200) Hz (+ IdB).
 - (3) **Velocity range.** 0.02 to four (4.0) inches per second.
 - (4) **Sound range.** One hundred (100) to one hundred forty (140) dB linear.
 - (5) **Transducers.** Three (3) mutually perpendicular axes.
 - (6) **Recording.** Provide time-history of wave form.
 - (7) **Printout.** Direct printout showing time, date, peak air pressure, peak particle velocity and frequency in three (3) directions and a printed waveform graph of the event depicting measured air blast and particle velocity in the three (3) directions.
 - (8) **Calibration.** At least once every twelve (12) months according to manufacturer's recommendations.
- (c) **Control of Adverse Effects Generally.** The permittee shall take necessary steps prescribed by the Town to control adverse effects from his activity.
- (d) **General Requirements.** Blasting shall be conducted so as to prevent injury and unreasonable annoyance to persons and damage to public or private property outside the permitted explosives use area.

(e) Airblast.

- (1) **Limits.** Airblast shall not exceed the maximum limits listed in Table A-1 at the location of any dwelling, public building, place of employment, school, church or community or institutional building outside and beyond the permitted explosives use area. Notwithstanding this general requirement, an annual permit holder subject to Use of Explosives: Blasting Activities

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this limitation may exceed the limitation on up to five percent (5%) of the blasts it initiates during the period from January 1 to December 31 without violating this Ordinance, provided that the airblast produced by such blasts does not exceed the limitations on airblast imposed by the Wisconsin Department of Industry, Labor and Human Relations in Subsection ILHR 7.64(2), Wis. Adm. Code, as amended from time to time.

TABLE A-1 AIRBLAST LIMITS

Lower Frequency Limit of

Measuring System in Hz Maximum Level in db

2 Hz or lower ~ Flat response 123 peak 6 Hz or lower ~ Flat response

129 peak

(2) Monitoring.

- a. The permittee shall monitor all blasts at the closest location to the blast of any dwelling, public building, place of employment, school, church or community or institutional building outside and beyond the permittee explosives use area, provided, however, that the permittee may monitor, at another location, approximately the same distance from the blast site, if the permittee is unable to obtain permission to conduct the monitoring from the owner of the preferred location. The Town Board or its designee may, at its discretion, require the relocation of monitoring equipment to a more suitable site and/or may conduct independent air-blast monitoring to spot-check

data supplied by the permittee. If independent monitoring by the Town after hearing discloses that this Chapter was violated by the permittee, then in that event, the permittee shall pay the reasonable costs incurred by the Town for the independent monitoring. Upon receiving and approving billings for such expenses, the Town shall cause notice of the expenses to be mailed to the permittee, who shall reimburse the Town for such expenses within thirty (30) days after receipt of such notice.

b. The measuring equipment used shall have an upper end flat frequency response of at least two hundred (200) Hz.

c. All measuring equipment during monitoring shall be spiked to the ground or sandbagged.

(f) **Flyrock.** Flyrock produced as a result of explosives use shall be totally contained within the permitted explosives use area.

(g) Ground Vibration. (1) General.

a. The maximum ground vibration at the location of any dwelling, public building, place of employment, school, church or community or institutional building

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outside or beyond the permitted explosives use area shall have a maximum peak-particle-velocity limit as provided by the Department, the scaled-distance equation provided by the Department, or the blasting level chart provided by the Department, whichever is applicable hereunder.

b. All structures in the vicinity of the permitted explosives use area, not listed in Subsection (g)(1), such as water towers, pipelines and other utilities, tunnels, dams, impoundments and underground mines shall be protected from damage by establishment by the permit holder of a maximum allowable limit on the ground vibration. The permit holder shall establish the limit after consulting with the owner of the structure.

(2) Seismic Monitoring.

a. The Town Board, in its discretion, may conduct independent seismic blast monitoring to spot-check data supplied by the permit holder. If the independent monitoring was done after good cause was shown therefor and after the permittee was given notice and an opportunity to be heard on the matter, the permittee shall be liable to the Town for all expenses incurred by the Town as a result of such independent monitoring. Upon receiving and approving billings for such expenses, the Town shall cause notice of the expenses to be mailed to the permittee, who shall reimburse the Town for such expenses within thirty (30) days after receipt of such notice.

b. The Town Board, upon good cause shown and after giving the permittee notice and an opportunity to be heard, may request analysis of records and data for any or all blasts which occurred within the permitted explosives use area.

(3) Preblasting Notification.

a. Each explosives use permit application and all reapplications shall include the names and addresses of all residents or owners of dwellings or other structures located within an area affected by the permitted explosives use. The affected area shall be determined based on the maximum pounds of explosive per eight (8) MS delay from the previous three (3) years' high. This calculation's square root x one

hundred (100) shall determine the affected in area in feet. This calculation shall be the maximum distance from the boundary of the quarry where a preblast survey may be requested. One thousand (1,000) feet shall be the minimum distance for which a preblast survey may be requested regardless of the above calculation. Residents outside of these boundaries may petition the Town Board for a preblast survey, with the survey to be at the quarry operator's expense. Residents denied this preblast survey may, at their own expense, secure a survey by a company acceptable to the quarry operator. The quarry operator may not unreasonably reject the company proposed to perform the survey. The surveys performed in this paragraph will serve as the basis for damage claims against the quarry operator. The blasting logs used to determine the previous three (3) years' high, as referenced in this Subsection, are available for inspection from the Town Clerk. [See Section 7-5-3(b)(5)].

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- b. At the time of permit application, the applicant shall have notified, in writing, all residents or owners of dwellings or other structures located within the affected area, previously defined in Subsection (g)(3)a immediately above, who may request a preblast survey. All preblast surveys shall include a water quality test for existing wells. The applicant shall cause a preblast survey to be conducted as to such dwellings or structures, and extensive water quality testing for existing wells, provided, however, that the applicant shall not be required to conduct a preblast survey more than once every six (6) years and a well water quality test more than once every four (4) years. The applicant or permittee are responsible for the costs of all requested preblast surveys and water quality tests.
- c. The survey shall include a written report signed by the person who conducted the survey. Copies of the survey report shall be promptly provided to the Town Clerk, the owner or resident, and the applicant/permittee. The owner, resident or applicant/permittee shall promptly submit in writing to the Town any objections to the survey report, setting forth in detail such objections.
- d. The owner of a dwelling or structure that is within the affected area defined in Subsection (3)(a) above, who subsequent to the preblast survey has substantially modified or improved the dwelling or structure by fifty percent (50%) or more of the fair market value may request a new preblast survey. If it is found that a preblast survey is appropriate, the permittee may conduct such surveys within a reasonable period of time, but not exceeding twice a year for all such requests by all owners. These updated surveys shall be requested in writing submitted to the Town Board, which shall promptly notify the permittee of the request.
- e. All expenses incurred as a result of such independent surveys shall be the responsibility of the applicant/permittee. Upon receiving and approving billings for such expenses, the Town shall cause notice of the expenses to be mailed to the applicant/permittee, who shall reimburse the Town for such expenses within thirty (30) days after receipt of such notice.

Sec. 7-5-6 Applicability.

- (a) **Effective Date.** All use of explosives and blasting activity conducted in the Town on or after the date of original adoption of this Chapter (June 19, 1995) shall be

subject to the provisions of this Chapter. Existing operations of whatever nature, including without limitation nonmetallic mining operations, shall comply with the terms of this Chapter.

(b) **Other Ordinances.** Where the provisions of this Chapter conflict with any provisions of any other Town Ordinance, the provisions of this Chapter, if more restrictive than those of the other ordinances, shall control and shall supersede the provisions of the other ordinances.

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(c) **State and Federal Laws.** Where the provisions of this Chapter conflict with the provisions of any applicable State or Federal law or regulation, the provisions of the most restrictive Ordinance, Statute or Regulation shall control, to the extent permitted by State and Federal law.

Sec. 7-5-7 Violations and Penalties.

(a) Enforcement Provisions.

(1) **Enforcement.** The following are criteria that the Town Board may consider for issuance, re-issuance, suspension or revocation of a blasting permit: a. Compliance with the blasting standards established by the Town of Taycheedah

as noted herein by this Chapter. b. Development and submittal to the Town Board of the Town of Taycheedah the

explosives use plan and fails upon operation to comply with the plan, c.

Development and submittal to the Town Board of the Town of Taycheedah the blasting log and fails upon operation to comply with the information called for

by the blasting log. d. Maintaining the financial assurance requested by the Town Board of the Town

of Taycheedah. e. Compliance with the operational hours for blasting as noted herein by this

Chapter, f. Compliance with airblast and ground vibration standards established by the Town

of Taycheedah as noted herein by this Chapter, g. Compliance with the pre-blasting notification requirements to residents and the

Town Board as noted herein by this Chapter, h. Attempts made by the permittee or party in interest to comply with the provisions

of this Chapter, i. Consideration of atmospheric, unknown conditions including geophysical

conditions, and other matters beyond the control of the permittee or party in interest.

(2) Suspension/Revocation.

a. Unless expressly provided herein or by other Town of Taycheedah ordinance provisions, the explosive use permit may be suspended or revoked for cause for substantial noncompliance with this Chapter after the proper Town of Taycheedah hearing noted below, unless in an emergency condition determined by a designated member of the Town Board and either the Town Clerk, the Town Constable, or the permit issuer of the Town of Taycheedah wherein the license, registration or permit can be suspended temporarily for a set time period. Prior to any action for suspension

or revocation, the Town Board of the Town of Taycheedah must, by the Town Clerk of the Town of Taycheedah, receive a verified complaint concerning the licensee, registrant or permittee. The following

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persons may file a verified complaint with the Town Board of the Town of Taycheedah:

1. The Town Chair.
 2. The Town Clerk.
 3. The Town Supervisors.
 4. The Town Zoning Administrator/Building Inspector.
 5. The Town Constable or other law enforcement officer.
 6. Any Town of Taycheedah resident.
 7. A landowner within one thousand (1,000) feet of the blasting site.
- b. The Town Board will make a determination if the allegations of the complaint are of sufficient magnitude, importance, or otherwise of such a nature as to required a formal evidentiary hearing.
- c. The person subject to charges for violation of any Town of Taycheedah ordinance or any violation of a condition of the explosives use permit shall be provided a copy of the verified complaint and notice of hearing before the Town Board of the Town of Taycheedah. The hearing shall be required to be not less than ten (10) days nor more than thirty (30) days after the receipt of notice, unless stipulated in writing by the Town Board of the Town of Taycheedah and the person subject to charges.
- d. The person subject to charges for violation of any Town of Taycheedah ordinance or any violation of a condition of the explosive use permit shall be entitled to the following:
1. Representation by legal counsel.
 2. Right to present and cross examine witnesses.
 3. Right to subpoena witnesses by the Town Chair of the Town of Taycheedah issuing subpoenas to compel attendance of witnesses.
- e. The Town Board of the Town of Taycheedah may, after the hearing for any person previously issued an explosive use permit by the Town Board of the Town of Taycheedah, act as follows:
1. Revoke the permit as a final decision.
 2. Suspend the permit for a date certain as a final decision.
 3. Request additional information as an interim decision prior to taking future action.
 4. Take no action on the permit as a final decision.
- f. The final decision of the Town Board of the Town of Taycheedah to revoke or suspend the explosives use permit shall be subject to appeal to the Circuit Court.
- (b) **Penalties for Violations.** In addition to the denial, suspension or revocation of a permit issued under this Chapter, any person who shall violate any provision of this Chapter or who shall fail to obtain a permit as required hereunder shall upon conviction of such

violation, be subject to a penalty of a civil forfeiture as prescribed in Section 1-1-6 of this

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Code of Ordinances, together with the costs of prosecution. Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Chapter shall preclude the Town from maintaining any appropriate action to prevent or remove a violation of any provision of this Chapter. Any default of such forfeiture determined by a Court of competent jurisdiction shall be subject to any penalties as provided by Sections 66.115, 66.117, 66.119 and 66.12, Wis. Stats., as may be amended.