

CHAPTER 12
LICENSES AND PERMITS

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LICENSES AND PERMITS 12.01

12.01 GENERAL PROVISIONS. (1) **LICENSES OR PERMITS REQUIRED.** No person shall engage in any trade, profession, business or privilege in the City for which a license or permit is required by any provision of this Code without first obtaining such license or permit from the City in the manner provided in this chapter, unless otherwise specifically provided.

(2) **APPLICATION.** Unless otherwise provided, application for a license or permit shall be made in writing to the City Clerk upon forms provided by the Clerk and the applicant shall state the location of the proposed activity and such other facts as may be required for or be applicable to the granting of such license or permit.

(3) **PAYMENT OF FEE.** (a) General. The fees for any license or permit shall be paid at the office of the City Clerk with the application for a license or permit.

(b) Alcohol Beverage Licenses. The publication fee for any alcohol beverage license shall be paid at the office of the City Clerk with the application. The alcohol beverage license fee shall be paid not less than 15 days prior to the date the license is to be issued.

(4) **NO REFUND OF FEES.** No license or permit fee shall be refunded if a license or permit is surrendered or revoked for cause.

(5) **BOND AND INSURANCE.** All required bonds shall be executed by 2 sureties or a surety company and be subject to the approval of the City Attorney. Where policies of insurance are required, such policies shall be approved as to substance and form by the City Attorney. Satisfactory evidence of coverage by bond or insurance shall be filed with the City before the license or permit is issued.

(6) **FORM.** Licenses and permits shall show the name of the licensee or permittee, the date of issue, the activity licensed and the term of the license or permit, and shall be signed in the name of the City by the City Clerk and be impressed with the City seal. The Clerk shall keep a record of all licenses and permits issued.

(7) **LICENSE AND PERMIT TERM.** (a) Unless otherwise provided, the term of the license year shall end on June 30 of each year.

(b) When the issuance of a license for a period of less than one year is permitted, the effective date of such license shall commence with the date of issuance.

(c) Permits shall be issued for the term set forth in the permit.

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(8) EXHIBITION OF LICENSES OR PERMITS. Every licensee or permittee shall carry his license or permit upon his person at all times when engaged in the activity for which the license or permit was granted, except that where such activity is conducted at a fixed place or establishment, the license or permit shall be exhibited at all times in some conspicuous place in his place of business. The licensee or permittee shall exhibit the license or permit when applying for a renewal and upon demand of any police officer or person representing the issuing authority.

(9) TRANSFER. Unless otherwise provided, no license or permit shall be transferable or assignable.

(10) RENEWAL. Unless otherwise provided, license or permit renewals shall be issued in the same manner and be subject to the same conditions as the original license or permit.

(11) SUSPENSION AND REVOCATION OF LICENSES AND PERMITS. Except as otherwise specifically provided, any license or permit granted under this chapter may be suspended or revoked by the Council for cause after giving the licensee or permittee an opportunity to be heard, as provided by law. Cause may include the following:

(a) Fraud, misrepresentation or incorrect statement contained in the application or made in carrying on the licensed or permitted activity.

(b) Conviction of any crime or misdemeanor, subject to §111.32(5)(a) and (h), Wis. Stats.

(c) Conducting such activity in such manner as to constitute a breach of the peace or a menace to the health, safety or welfare of the public, or a disturbance of the peace or comfort of residents of the City upon recommendation of the appropriate City official.

(d) Expiration or cancellation of any required bond or insurance.

(e) Actions unauthorized or beyond the scope of the license or permit granted.

(f) Violation of any regulation or provision of this Code applicable to the activity for which the license or permit has been granted, or any regulation or law of the State so applicable.

(g) Failure to continuously comply with all conditions required as precedent to the approval of the license or permit.

(12) DELINQUENT TAXES, ASSESSMENTS AND CLAIMS. No license shall be granted for any premises for which taxes, assessments or other claims of the City are delinquent and unpaid, or to any person delinquent in the payment of such claims to the City.

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12.02 INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES.

(1) **STATE STATUTES ADOPTED.** The provisions of Ch. 125, Wis. Stats., relating to the sale of intoxicating liquor and fermented malt beverages, except §§125.03, 125.075, 125.08, 125.14(4), 125.15, 125.16, 125.19, 125.29, 125.30, 125.32(3), 125.33, 125.52, 125. 125.55, 125.56, 125.58, 125.59, 125.60, 125.61, 125.62, 125.63, 125.67 and 125.69, exclusive of any provisions thereof relating to the penalty to be imposed or the punishment for violation of said Statutes, are hereby adopted and made a part of this section by reference. A violation of any such provision shall constitute a violation of this section.

(2) **DEFINITIONS.** As used in this section, the following definitions apply:

(a) Legal Drinking Age. Twenty one years of age.

(b) Underage Person. A person who has not attained the legal drinking age.

(3) **LICENSE APPLICATION.** Application for a license to sell or deal in alcohol beverages shall be made in writing on the form prescribed by §125.04(3), Wis. Stats., and shall be filed, together with the cost of publication as provided by §125.04(3)(g)6., Wis. Stats., with the City Clerk not less than 15 days prior to the granting of the license. However, applications for licenses to be issued under §§125.26(6) and 125.51(10), Wis. Stats., shall be filed with the Clerk not less than 3 days prior to the granting of the license. Further, as a condition of granting an operator's license, the applicant shall sign a waiver permitting the City to secure from the Federal Bureau of Investigation and the Wisconsin Crime Information Bureau a record check of the applicant.

(4) **SAFETY AND SANITATION REQUIREMENTS:** Each licensed premises shall be maintained and conducted in a sanitary manner and shall be a safe and proper place for the purpose being used. Each licensed premises shall be operated and maintained in a manner compliant to applicable State Code relative to building and sanitation and building and fire safety.

a) The Chief of Police, or an agent appointed by the Chief, shall investigate all applications to ascertain if the same are proper and to ascertain if the granting of the application is consistent with the public interest of the City, including information as to whether there have been violations of the liquor and fermented malt beverage regulations, laws, and rules of the City, or any other federal, State, or local law directly related to the licensed activity.

b) The City Council may refuse to issue or renew a license or may revoke or suspend an existing license for any operator or premises which fails to comply with this Section in a manner which creates a substantial risk of serious injury or illness to its employees, customers, or others lawfully on the licensed premises. The City Council shall refuse to issue or renew a license under this subsection only after giving the operator a reasonable opportunity to remedy the relevant conditions.

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(5) LICENSE FEES. The fees for issuance of fermented malt beverage and intoxicating liquor licenses shall be as follows:

(a) Class "A" Fermented Malt Beverages. Fee shall be set by Resolution of the City Council.

(b) Class "B" Fermented Malt Beverages. Fee shall be set by Resolution of the City Council.

(c) Temporary Class "B" License. 1. Picnic License, Beer. Fee shall be set by Resolution of the City Council. Issued to organizations enumerated in §125.26(6) Wis. Stats., to sell or serve fermented malt beverages at a picnic, meeting or gathering.

2. Picnic License, Wine. Fee shall be set by Resolution of the City Council except that no fee shall be charged in the event a license under subpar. 1. above is simultaneously issued to organizations enumerated in §125.51(10), Wis. Stats., to sell or serve wine at a picnic, meeting or gathering.

3. Annual Quota. No more than 2 licenses may be issued to any one organization in any 12 month period.

(d) "Class A" Intoxicating Liquor. Fee shall be set by Resolution of the City Council. See §125.51(2), Wis. Stats.

(e) "Class B" Intoxicating Liquor. Fee shall be set by Resolution of the City Council except the license fee for bona fide clubs and lodges situated and incorporated or chartered in the State for at least 6 years shall be as provided in §125.51(3), Wis. Stats.

(f) "Class C" Wine. Fee shall be set by Resolution of the City Council. Issued to restaurants for the sale of wine by the glass. Sale of alcohol beverages shall account for less than 50% of gross receipts and no barroom is permitted if City's "Class B" quota prohibits the issuance of a "Class B" license. (See §125.51 (3m), Wis. Stats.)

(g) Wholesalers Fermented Malt Beverages. Fee shall be set by Resolution of the City Council.

(h) Operator's License. Operators' licenses are issued annually, to expire on June 30, as provided in §125.17(3), Wis. Stats. Fee shall be set by Resolution of the City Council. No operator's license shall be granted unless the applicant has successfully completed a VTAE responsible beverage server training course or is otherwise exempt from such requirements under §125.17(6) (a), Wis. Stats. The City Clerk may issue a provisional operator's license to a person who is enrolled in said training course and shall revoke such license if the applicant fails to successfully complete the course.

(i) Provisional Operator's License. Fee shall be set by Resolution of the City Council as provided in §125.17(5), Wis. Stats. The City Clerk shall issue temporary licenses.

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(k) Temporary License. Fee shall be as provided in §125.17(4), Wis. Stats. The City Clerk shall issue temporary licenses.

(l) Transfer of License to Another Premises. Fee shall be set by Resolution of the City Council.

(m) “Class B” Retailer’s Winery License. Fee shall be set by Resolution of the City Council for the sale of wine to be consumed on the premises where sold and also authorizes the sale of wine in the original package to be consumed off the premises where sold.

(6) OPERATOR’S LICENSE. All applications for an operator’s license shall be filed in the office of the City Administrator. The City Administrator is hereby authorized to issue operator’s licenses, temporary operator’s licenses, and provisional operator’s licenses to qualified applicants. Applications that generate background check concerns shall be presented to the Common Council for consideration.

(7) LICENSE REQUIRED. No person shall vend, sell, deal or traffic in, or, for the purpose of evading any law or ordinance, give away any liquor or fermented malt beverages, or cause the same to be done, without having procured a license as provided in this section nor without complying with all provisions of this section, and all Statutes, ordinances and regulations applicable thereto. A license shall be required for each stand, place, room or enclosure or for each suite of rooms or enclosures which are in direct connection or communication to each other where liquor and fermented malt beverages are kept, sold or offered for sale; no license shall be issued to any person for the purpose of possessing, selling or offering for sale any liquor or fermented malt beverage in any dwelling, house, flat or residential apartment.

(8) QUALIFICATIONS FOR LICENSES AND PERMITS. (a) Natural Persons. Licenses related to alcohol beverages, issued to natural person under this section, may be issued only to persons who:

1. Do not have an arrest or conviction record, subject to §§111.321, 111.322, 111.335 and §125.04(5)(a), Wis. Stats.

2. Have been residents of this State continuously for at least one year prior to the date of filing the application for license, except that Class B licenses may be issued to a person who has been a resident of the State continuously for 90 days prior to the date of the application.

3. Have attained the legal drinking age, except that operators' licenses may be issued to persons who have attained the age of 18.

4. Have successfully completed a VTAE responsible beverage server training course or is otherwise exempt from such requirement under §125.17(6)(a), Wis. Stats.

(b) Criminal Offenders. No license or permit related to alcohol beverages may, subject to §§111.321, 111.322, 111.335, Wis. Stats., be issued under this section to any natural person who has

been convicted of a felony unless the person has been duly pardoned.

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(c) Corporations. No license or permit may be issued to any corporation unless the agent of the corporation appointed under §125.04(6), Wis. Stats., and the officers and directors of the

corporation meet the qualifications of pars. (a) 1. and 3. and (b) above, except that par. (a)2. does not apply to agents.

(9) ALCOHOL BEVERAGE LICENSE QUOTAS. (a) On-Premises Intoxicating Liquor Licenses. The number of on-premises "Class B" intoxicating liquor licenses is limited to 9.

(b) On/Off Premises Fermented Malt Beverage Licenses. The number of persons and places that may be granted a Class "B" (on/off premises) fermented malt beverage license under this section is limited to fourteen (14).

(c) Off-Premises Intoxicating Liquor Licenses. The number of off-premises "Class A" intoxicating liquor licenses is limited to thirteen (13).

(d) Off-Premises Fermented Malt Beverage Licenses. The number of off-premises retail Class "A" fermented malt beverage licenses is limited to 13.

(e) Restaurant On-Premises Wine Licenses. The number of "Class C" on-premises wine licenses is limited to thirteen (13).

(10) LICENSE CONDITIONS AND RESTRICTIONS. In addition to the conditions and restrictions imposed by State law on the granting of Class A and Class B fermented malt beverage licenses and intoxicating liquor licenses hereunder, the following conditions and restrictions shall apply:

(a) Consent to Inspection of Premises. It shall be a condition of any license issued hereunder that the licensed premises may be entered and inspected at any reasonable hour by any police officer of the City without any warrant, and the application for a license hereunder shall be deemed a consent to this provision. If such inspection is denied, such denial shall be deemed a violation of this section.

(b) Violation by Agents or Employees. A violation of this section by a duly authorized agent or employee of a licensee shall constitute a violation of the licensee.

(c) Sales to Underage Persons Prohibited. No alcohol beverage shall be sold, dispensed, given away or furnished to any underage person unless he is accompanied by a parent, guardian or spouse who has attained the legal drinking age.

(d) Sales by Clubs. No club shall sell intoxicating liquors or fermented malt beverages except to members and guests invited by members.

(e) Commencement of Operations. Within 90 days after the issuance of a "Class B"
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intoxicating liquor license or a Class "B" fermented malt beverage license, the licensee shall be open for business with adequate stock and equipment. Upon his failure to do business

within such time, his license shall be subject to revocation by the Council after a public hearing. The Council may, for a good cause shown, extend such 90 day period.

(f) Cessation of Operations. If any licensee shall suspend or cease doing business for 90 consecutive days or more, his "Class B" intoxicating liquor license or his Class "B" fermented malt beverage license shall be subject to revocation by the Council after a public hearing. The Council may, for a good cause shown, extend such 90 day period.

(g) Transfer of License. No license shall be transferable from person to person except as provided in §125.04(12)(b), Wis. Stats., or from place to place, except as provided in §125.04(12)(a), Wis. Stats.

(h) Safety and Health Requirements. No retail Class B license shall be issued unless the premises to be licensed conform to the sanitary, safety and health requirements of the State Building Code, the State Plumbing Code and the rules and regulations of the State Department of Health and Social Services applicable to restaurants, and also shall conform to all ordinances and regulations of the City.

(i) Clear View of Premises Required. Except as otherwise provided in this subsection, all windows in the front of any licensed premises shall be of clear glass, unobstructed by any signs, advertising material or Venetian blinds, and the premises shall be so arranged as to furnish a clear view of the entire premises from the sidewalk at all times.

(j) City Taxes and Claims. No license shall be granted for operation on any premises upon which personal property taxes or assessments or other financial claims of the City are delinquent and unpaid.

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

(l) Posting of Licenses Required. Licenses or permits issued under this section shall be posted and displayed as provided in §125.04(10), Wis. Stats., and any licensee or permittee who shall fail to post his license or permit as therein required shall be presumed to be operating without a license.

(11) CLOSING HOURS. No premises for which an alcohol beverage license has been issued shall remain open for the sale of alcohol beverages, as follows:

(a) Wholesale License. Between 5:00 P.M. and 8:00 A.M., except Saturdays when the closing hour shall be 9:00 P.M.

(b) Retail "Class A", Class "A", or "Class B" Retailer's Winery License. Between the

hours of 9:00 P.M. and 8:00 A.M.

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- (c) Retail Class B License. No premises for which a retail Class B liquor and malt beverage license has been issued shall be permitted to remain open for sale of alcohol beverages

between the hours of 2:00 A.M. and 6:00 A.M. on Monday through Friday and between the hours of 2:30 A.M. and 6:00 A.M. on Saturday and Sunday.

(d) Hotels and Restaurants. Hotels and restaurants, the principal business of which is the furnishing of food and/or lodging to patrons, shall be permitted to remain open after closing hours for the conduct of regular business, but shall not sell alcohol beverages during the closing hours stated in par. (c) above.

(e) Presence on Premises After Closing Hour Restricted. 1. Any person who is not an employee of the licensee who remains on the premises after the designated closing hour is subject to the penalties as provided in this chapter.

2. Any person, while on the premises after closing hours, must be actively engaged in bona fide business activities and may not consume alcohol beverages.

(12) SALE OF CLASS B PACKAGED GOODS. ((a) The City of Black River Falls adopts the provisions of Wis. Stat. 125.51(3)(b) regarding "Class B" licenses as if fully set forth herein.

(b) Hours of Sale. Between the hours of 12:00 midnight and 8:00 A.M., no person may sell any packaged goods from any Class B licensed premises.

(13) UNDERAGE PERSON; PRESENCE IN PLACES OF SALE. (a) Restrictions. Pursuant to §125.07(3), Wis. Stats., an underage person not accompanied by his parent, guardian or spouse who has attained the legal drinking age may not enter or be on any premises for which a license or permit for the retail sale of alcohol beverages has been issued, for any purpose except the transaction of business pertaining to the licensed premises with or for the licensee or his employee. The business may not be amusement or the purchase, receiving or consumption of edibles or beverages or similar activities which normally constitute activities of a customer of the premises.

(b) Exceptions. Paragraph (a) above shall not apply to:

1. An underage person who is a resident, employee, lodger or boarder on the licensed premises. at least 18 years of age may sell or serve alcohol beverages on any Class A or Class B premises, provided that such underage person is under the immediate supervision of the licensee, agent or manager, or a licensed operator, who is on the premises at the time of such sale or service.

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2. An underage person who enters a Class A premises for the purpose of purchasing edibles and soft drinks and immediately thereafter leaves such premises.
3. Hotels, drug stores, grocery stores or bowling alleys or athletic fields or stadiums owned by a county or municipality.
4. Licensed restaurants where the principal business is that of a restaurant.
5. A person who is at least 18 years of age and who is working under a contract with the licensee to provide entertainment for customers on the premises.
6. An underage person who enters on Class "B" or "Class B" premises on dates specified by the licensee when no alcohol beverages will be consumed, sold or given away. The licensee shall notify the Police Department of such specified dates; unless all alcohol beverages are stored in a locked portion of the premises, the licensee or a licensed operator must be on the premises at all times.

(14) UNDERAGE PERSON; CONSUMPTION AND POSSESSION OF ALCOHOL BEVERAGES. (a) Restrictions. Pursuant to §125.07 (4) (b) and (bm), Wis. Stats., no underage person not accompanied by a parent, guardian, or spouse who has attained the legal drinking age may knowingly possess or consume alcohol beverages.

(b) Exceptions. Any underage person may possess alcohol beverages if employed by any of the following:

1. A Brewer.
2. A fermented malt beverages wholesaler.
3. A permittee other than a Class "B" or "Class B" permittee.
4. A facility for the production of alcohol fuel.
5. A retail licensee or permittee under the conditions specified in §125.32 (2) or §125.68 (2), Wis. Stats., or for delivery of unopened containers to the home or vehicle of a customer.
6. A campus, if the underage person is at least 18 years of age and is under the immediate supervision of a person who has attained the legal drinking age.

(c) Selling or serving alcohol beverages. Pursuant to §125.32 (2) or §125.68 (2), Wis. Stats., any underage person who is at least 18 years of age may sell or serve alcohol beverages on any Class A or Class B premises, provided that such underage person is under the immediate supervision of the licensee, agent or

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manager, or a licensed operator, who is on the premises at the time of such sale or service.

(15): REVOCATION AND SUSPENSION OF LICENSES. (a) Procedure. Whenever the holder of any license under this chapter violates any portion of this chapter, proceedings for the revocation or suspension of such license may be instituted in the manner and under the procedure established by §125.12, Stats., as amended, and the provisions herein relating to granting a new license shall likewise be applicable.

(b) Automatic Revocation. Any license issued under the provisions of this chapter shall stand revoked without further proceedings upon the conviction of a licensee or employee, agent or representative thereof for a second offense under this Ordinance or for a violation of Chapters 125 or 139 of the Wisconsin Statutes or any other State or Federal intoxicating liquor or fermented malt beverage laws.

(c) Continuation of Business. Every licensee under this section shall conduct the licensed business at the authorized location for a period of thirty-two (32) hours per week, unless excepted by the Common Council for good cause. Failure to conduct the licensed business at the authorized location for a period of thirty-two (32) hours per week may result in revocation, suspension, or non-renewal of the license. The thirty-two (32) hour per week requirement shall not apply to any license held by a bona fide non-profit organization. There shall be no refund of any license fee paid to a party whose license is revoked or suspended under this section.

(d) At the time of application for license or renewal of license, every licensee shall provide the City Clerk with a detailed statement of the licensee's hours of operation on a form provided by the City Clerk.

(16) NUDE DANCING IN LICENSED ESTABLISHMENTS. (a) Prohibited. It is unlawful for any person to perform or engage in, or for any licensee or manager or agent of the licensee to permit any person, employee, entertainer or patron to perform or engage in any live act, demonstration, dance or exhibition on the premises of a licensed establishment which:

1. Shows his or her genitals, pubic area, vulva, anus, anal clef or cleavage with less than a fully opaque covering.
2. Shows any portion of the female breast below a point immediately above the top of the areola.
3. Shows the covered male genitals in a discernibly turgid state.

(b) Exemptions. The provisions of this subsection do not apply to licensed establishments such as theaters, performing arts centers, civic centers and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or

the advertising or promotion of, employees engaging in nude erotic dancing.

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(c) Definitions. For purposes of this subsection:

1. **Licensed Establishment.** Any establishment licensed by the City to sell alcohol beverages pursuant to Ch. 125, Wis. Stats.

2. **Licensee.** The holder of a retail "Class A", "Class B", Class "B", Class "A" or "Class C" license granted by the City pursuant to Ch. 125, Wis. Stats.

(d) Penalties. Any person who violates any of the provisions of this subsection shall be subject to a forfeiture of not less than \$200 and not more than \$1,000 per violation. A separate offense and violation shall be deemed committed on each day on which a violation occurs or continues. In addition, violation of this subsection constitutes sufficient grounds for suspending, revoking or non-renewing an alcohol beverage license under §125.12, Wis. Stats.

12.03 CIGARETTE RETAILER LICENSE. (1) **REQUIRED.** No person shall sell cigarettes in the City without first obtaining a license from the City Clerk. The provisions of §134.65, Wis. Stats., are hereby adopted and made a part of this section by reference.

(2) **LICENSE FEE.** Fee shall be set by Resolution of the City Council.

12.04 RUMMAGE AND GARAGE SALES REGULATED. (1) **LICENSE REQUIRED.** No person shall conduct a rummage or garage sale within the City without having obtained a license from the City Clerk, except as provided in sub. (2) below. Before issuing the license, the Clerk shall refer the application to the Building Inspector for verification as to whether or not such sale at the proposed location is compatible with ch. 17 of this Code.

(2) **EXCEPTIONS TO LICENSE REQUIREMENT.** No person shall be required to obtain a license if:

(a) The sale is conducted in a business district and is a permitted use in such district.

(b) The person conducts, on his own residential premises, no more than 3 sales in any one year. Each sale may be held for no more than 3 consecutive days and shall not be conducted between the hours of 8:00 P.M. and 8:00 A.M.

(c) The sale is conducted by religious, educational, charitable or civic organizations on premises located in a residential district no more than 3 times in any one year. Each such sale may be held for no more than 3 consecutive days and shall not be conducted between the hours of 8:00 P.M. and 8:00 A.M.

(3) **LICENSE FEE.** Fee shall be set by Resolution of the City Council, such sale not to exceed 3 days,

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12.05 PEDDLERS, CANVASSERS, SOLICITORS AND TRANSIENT MERCHANTS. (1) DEFINITIONS. (a) Peddler. A person who goes from place to place within the City offering for sale property which he carries with him. It includes vendors who distribute their products to regular customers on established routes.

(b) Canvasser or Solicitor. A person who goes from place to place within the City soliciting orders for the future delivery of property or for services to be performed in the future. It does not include any person who occupies any place within the City for the purpose of exhibiting samples and taking orders for future delivery.

(c) Transient Merchant. A person who engages, at a fixed location in the City, in the temporary business of selling property at such location. It does not include a person who does not sell from stock, but exhibits samples for the purpose of securing orders for future delivery only. It includes a person who associates temporarily with any local business or conducts business in the name of a local merchant, dealer or auctioneer.

(2) **LICENSE REQUIRED.** Except as provided by sub. (3) below, no person shall conduct any of the activities enumerated in sub. (1) above without a license therefore issued by the Police Chief.

(3) **EXEMPTIONS.** No license shall be required hereunder of the following:

- (a) Persons selling personal property at wholesale to dealers in such articles.
- (b) Newsboys.
- (c) Children under 18 years of age who are residents of the City
- (d) Merchants or their employees delivering goods in the regular course of business.
- (e) Farmers or truck gardeners offering to sell the products of the farm or garden occupied and cultivated by them.
- (f) A veteran holding a special State license under §440.51, Wis. Stats., but he shall comply with subs. (7) through (11) below.
- (g) Any person soliciting for charitable, religious, patriotic or philanthropic purposes where the proceeds thereof are devoted solely to the purposes of the organization, but shall comply with subs. (8), (10) and (11) below.
- (h) Sales required by statutes or order of a court, (i) Bona fide auction sales, conducted pursuant to law.

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(4) INVESTIGATION FEE. At the time of filing his application, the applicant shall pay to the Police Chief a fee as set by Resolution of the City Council to cover the cost of investigation of the facts stated in the application.

(5) INVESTIGATION. The Police Chief shall cause the applicant and the facts stated in the application to be investigated and shall, within 5 days, approve or disapprove the application and, if approved, shall issue the license.

(6) BOND. (a) When Required. Every applicant who is not a resident of Jackson County or who represents a firm whose principal place of business is located outside of the State shall file with the Police Chief a surety bond in the amount of \$500, approved by the City Attorney, conditioned that the applicant shall comply with all provisions of the ordinances of the City and State laws regulating peddlers, canvassers, solicitors and transient merchants, and guaranteeing to any person doing business with the licensee that all money paid as a down payment shall be accounted for and applied according to the representations of the licensee; and further guaranteeing that property purchased for future delivery shall be delivered according to the representations of the licensee.

(b) Action on Bond. Action on such bond may be brought by any person aggrieved.

(7) EXCESSIVE NOISE PROHIBITED. No person licensed hereunder shall, in hawking his wares, create any noise annoying to a person of ordinary sensibilities.

(8) USE OF STREETS. No licensee shall use the public streets or sidewalks for purpose of sales in such a manner as to impede or inconvenience the public use of the streets or sidewalks.

(9) DISPLAY OF LICENSE. Any person licensed hereunder shall carry his license with him while engaged in licensed activities and shall, upon request, display such license to any officer of the City or any person with whom he seeks to do business.

(10) HOURS RESTRICTED. No person licensed hereunder shall call at any residence or other place between 9:00 P.M. and 9:00 A.M., except by appointment.

(11) PROHIBITED PRACTICES. No licensee shall:

(a) Call at any place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning.

(b) Remain on the premises after being requested to leave by the owner, occupant or person in authority.

12.06 MOBILE HOMES AND MOBILE HOME PARKS. (1) STATE STATUTES ADOPTED BY REFERENCE. The provisions of §66.0435, Wis. Stats., and the definitions therein are hereby adopted by reference.

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(2) **PARKING OUTSIDE LICENSED MOBILE HOME PARKS,** (a) Restricted. No occupied mobile home shall be permitted to be located in the City unless the same is in a licensed mobile home park, except those mobile homes occupied outside of a mobile home park on the effective date of this section.

(b) Exceptions. 1. Paragraph (a) above is not intended to restrict the location of one- and 2-family manufactured homes which meet the applicable one- and 2-family standards set forth in Ch. 101, Wis. Stats., and the requirements of ch. 17 of this Code.

2. Notwithstanding other provisions of this sub-Section, the Council may, upon application, issue a special permit for the location of a mobile home outside a mobile home park for temporary use solely as a field office, and such permit shall specifically state the expiration date thereof which shall not exceed 12 months.

(3) **PARK LICENSE REQUIRED.** No person shall establish or operate upon property owned or controlled by him within the City a mobile home park without having first secured a license therefore from the Council. The application for such license shall be made to the City Clerk and shall be accompanied by a fee as set by Resolution of the City Council for each space in the existing or proposed park, but not less than \$25. Such parks shall comply with Wis. Adm. Code H77, which is hereby adopted by reference, and all zoning requirements set forth in ch. 17 of this Code.

(4) **ADDITIONS TO PARKS.** Licensees of mobile home parks shall furnish information to the City Clerk and Assessor on such homes added to their parks within 5 days after their arrival on forms furnished by the Clerk.

(5) **PARKING PERMIT FEES.** There is imposed on each mobile home located in the City a parking permit fee, such amount to be determined in accordance with §66.0435, Wis. Stats. The fees shall be paid to the City Clerk on or before the 10th day of the month following the month for which they are due. It shall be the full and complete responsibility of the licensee of a mobile home park to collect such fees from each mobile home therein and to remit such fees to the Clerk. Failure to do so is to be treated like a default in payment of personal property taxes and subject to all procedures and penalties applicable under Chs. 70 and 74, Wis. Stats.

(6) **PAYMENT OF FEES FOR HOMES OUTSIDE PARKS.** The owner of the land on which a mobile home is located outside of a mobile home park may collect the fee from the owner of the mobile home and, on or before January 10 and on or before July 10, shall transmit to the City Clerk all fees owed for the 6 months ending on the last day of the month preceding the month when the transmission is required.

(7) **MOBILE HOME PARK REQUIREMENTS.** See ch. 17 of this Code.

12.07 REGULATION AND LICENSING OF DOGS. (1) **DOG LICENSE REQUIRED.** It shall be unlawful for any person in the City to own, harbor or keep any dog more than 5 months of age without complying with the provisions of this section and §§174.05 through 174.10, Wis. Stats., relating to the listing, licensing and tagging of same.

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(2) LICENSE FEE. The license fee for a dog shall follow the dog license fee schedule set by the Jackson County Board of Supervisors.

(3) KENNELS PROHIBITED. No kennels shall be allowed within the City limits.

(4) RABIES VACCINATION REQUIRED. It shall be unlawful for any person to keep a dog in the City which is over 5 months of age and has not received a rabies vaccination as required by §95.21(2), Wis. Stats. No dog license shall be issued until a certificate of rabies vaccination issued by a veterinarian has been presented. A rabies vaccination tag shall be attached to the collar of all licensed dogs at all times, except as provided in §95.21(2)(f), Wis. Stats.

(5) DEFINITIONS. In this section, unless the context of subject matter otherwise require, the terms used shall be defined as follows:

(a) Owner. Any person owning, harboring or keeping a dog and the occupant of any premises on which the dog remains or to which it customarily returns daily for a period of 10 days is presumed to be harboring or keeping the dog within the meaning of this section.

(b) At Large. A dog which is off the premises of the owner and not under the control of some person either by leash or otherwise, but a dog within an automobile of any other person with the consent of the dog's owner shall be deemed to be upon the owner's premises.

(c) Kennel. Any establishment wherein dogs are kept for the purpose of breeding, sale or sporting purposes.

(6) RESTRICTIONS ON KEEPING OF DOGS. It shall be unlawful for any person within the City to own, harbor or keep any dog which:

(a) Habitually pursues vehicles upon any street, alley or highway.

(b) Molests passersby or assaults or attacks any person without provocation.

(c) is at large within the limits of the City.

(d) Habitually barks or howls to the annoyance of any person or persons. This paragraph shall not apply to hospitals conducted for the treatment of small animals or to the premises occupied or used by the City Pound.

(e) Kills, wounds or worries any domestic animal.

(f) Urinates or defecates on public property or other private property. In the event the dog defecates on another's land or any public right of way, the owner shall immediately remove the feces in a sanitary manner.

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(7) DOGS RUNNING AT LARGE AND UNTAGGED DOGS. (a) Dogs Running at Large. A dog is considered to be running at large if it is off the premises of its owner and not under the control of the owner or some other person, as defined in sub. (6)(b) above.

(b) Untagged Dogs. A dog is considered to be untagged if a valid license tag is not attached to a collar which is kept on the dog whenever the dog is outdoors unless the dog or cat is securely confined in a fenced area.

(c) Dogs Subject to Impoundment. Police officers shall attempt to capture and restrain any dog running at large and any untagged dog.

(d) Penalties. If the owner of a dog, negligently or otherwise, permits the dog to run at large, or permits a dog or cat to be untagged, the owner shall forfeit \$10 for the first offense and \$20 for subsequent offenses.

(8) DUTY TO REPORT ANIMAL BITE. Every person, including the owner or person harboring or keeping a dog, cat or other animal, who knows that such animal has bitten any person shall immediately report such fact to the Police Department.

(9) QUARANTINE OR SACRIFICE OF ANIMALS SUSPECTED OF BITING A PERSON OR BEING INFECTED WITH RABIES. (a) Quarantine or Sacrifice of Animal. A police officer may order a dog, cat or other animal quarantined if he 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 animal cannot be captured, the officer may kill the animal. The officer may kill an animal only as a last resort or 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.

(b) Quarantine Order. If a quarantine is ordered, the owner of the dog, cat or other animal shall be subject to the provisions of §95.21(5), (6) and (8), Wis. Stats.

(10) SETTING ANIMALS AT LARGE PROHIBITED. No person shall open any door or gate of any private premises for the purpose of setting any dog, cat or other animal at large, except the owner of such animal.

(11) IMPOUNDING AND DISPOSITION OF DOGS. (a) Impounding of Dogs. A police officer or other person restraining a dog running at large shall take such animal to the Jackson County Animal Shelter. The police officer shall attempt to identify and notify the owner and shall keep a public record of all such dogs impounded.

(b) Release of Dog to Owner or Representative. The police officer may release the dog to the owner or his representative if:

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1. The owner *or* representative gives his name and address.
2. The dog is licensed and vaccinated against rabies.
3. Pays the dog's intake fee and the boarding fee.

(c) Release of Dog to Person Other Than Owner. If the owner of the dog is unknown or does not reclaim the dog within 7 days, the police officer may release the dog to a person other than the owner if such person:

1. Gives his name and address.
2. Signs a statement agreeing to license the dog and have the dog vaccinated against rabies.

(12) PENALTIES. In addition to other penalties provided in this section, the following penalties are imposed:

(a) Failure to Obtain Rabies Vaccination. A dog owner who fails to have a dog vaccinated against rabies, as provided in this section, shall, upon conviction, forfeit not less than \$50 nor more than \$100.

(b) Refusal to Comply With Quarantine Order. An owner of a dog, cat or other animal who refuses to comply with an order issued under this section to deliver the animal to a police officer, the pound designated by the Council, or veterinarian, or who does not comply with the conditions of an order that the animal be quarantined, shall, upon conviction, forfeit not less than \$100 nor more than \$500.

12.08 KEEPING OF VICIOUS DOGS REGULATED. (1) DEFINITION. A vicious dog is defined as follows:

(a) Any dog with a propensity, tendency or disposition to attack, cause injury or otherwise endanger the safety of human beings or other domestic animals as evidenced by its habitual or repeated chasing or snapping, or barking and/or snarling in a threatening manner.

(b) Any dog which attacks a human being or another domestic animal without provocation.

(c) Any dog owned or harbored primarily or in part for the purpose of dog-fighting, or any dog trained for dog-fighting.

(2) REQUIREMENTS AND PROHIBITIONS. (a) Leash and Muzzle. No person owning, harboring or having the care of a vicious dog may suffer or permit such dog to go outside its kennel or pen unless the dog is securely leashed with a leash no longer than 4 feet in length. No person may permit a vicious dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. The dog may not be leashed to inanimate objects such as trees, posts and buildings. A vicious dog on a leash outside the dog's kennel shall be muzzled by a muzzling device sufficient to prevent the dog from biting persons or other

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animals. A vicious dog shall not be required to be muzzled when shown either in a sanctioned American Kennel Club show or upon prior approval of the Police Chief.

(b) Confinement. All vicious dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as provided in par. (a) above. The pen, kennel or structure shall have secure sides and a secure top attached to all sides. A structure used to confine a vicious dog shall be locked with a key or combination lock when the dog is within the structure. The structure shall have a secure bottom or floor attached to the sides of the pen, or the sides of the pen must be embedded in the ground no less than 2 feet. All structures erected to house vicious dogs shall comply with all zoning and building regulations of the City. All structures shall be adequately lighted and ventilated and kept in a clean and sanitary condition.

(c) Confinement Indoors. No vicious dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit the building on its volition. No vicious dog may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.

(d) Prohibited in Multiple Dwellings. No vicious dog may be kept within any portion of any multiple dwelling.

(e) Signs. All owners, keepers or harborers of vicious dogs shall, within 15 days of the effective date of this section, display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog." A similar sign is required to be posted on the kennel or pen of the dog.

(3) VICIOUS DOG DETERMINATION. The Police Chief shall investigate every dog complaint and make a determination as to whether or not such dog is "vicious," as defined in sub. (1) above. In the event the Police Chief makes a determination that a dog is "vicious," he shall so inform the owner, keeper or harbinger of such dog and provide such person with a copy of this section.

(4) APPEAL OF VICIOUS DOG DETERMINATION. Any person aggrieved by the determination of the Police Chief, as provided in sub. (3) above, may appeal such determination, as provided in ch. 6 of this Code.

(5) COMPLIANCE. Within 10 days of the determination that a dog is vicious, as provided in sub. (3) above, or 10 days after an unsuccessful appeal under sub. (4) above, the owner of a vicious dog shall either comply with all provisions of this section or dispose of such dog.

(6) DISPOSITION OF VICIOUS DOGS. Any vicious dog which attacks a human being or domestic animal may be ordered destroyed by a police officer or humane officer when, in the judgment of a court of competent jurisdiction, the dog represents a continuing threat of serious harm to human beings or domestic animals.

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(7) PENALTY. Any person who violates any provision of this section shall, upon conviction, be subject to the payment of a forfeiture, as provided in sec. 25.04 of this Code. A separate offense shall be deemed committed on each day on which a violation of this section occurs or continues.

12.09 PARADE PERMIT. (1) REQUIRED. No parade shall be held within the City unless at least 30 days prior to the date of the parade, the person or organization sponsoring or having control of the operation of the parade submits to the Police Chief an application for a parade permit. However, the Mayor or, in his absence, the Council President has a discretionary power to waive the 30-day requirement for the submittal of the application for a parade permit if he deems it in the best interests of the citizens of the City. In the event a State highway is to be part of the route, the application shall be made no less than 2 weeks prior to the parade.

(2) APPLICATION. The application for a parade permit shall contain the following:

- (a) Date and time of the parade.
- (b) Duration of the parade.
- (c) Approximate number of participants or units to be included in the parade.
- (d) Route to be used.
- (e) Any unusual or extraordinary items that may require the special attention of the Police Department or the Street Department.
- (f) Signature of the applicant.

(3) ISSUANCE OF PERMIT. If the Police Chief determines that the holding of the parade would have no adverse effect upon the citizens of the City, he shall issue the permit. However, if the Chief determines that the issuance of a permit would be detrimental to the citizens of the City, he shall deny the application.

12.10 FARMERS MARKET. (a) ESTABLISHED. There is hereby established a Farmers Market. Except for sales within enclosed structures and business establishments within the City, all persons offering for sale articles for human consumption such as fruits, vegetables, edible grains, nuts and berries, apiary products, baked goods, maple sugars, syrups and eggs or non-edible articles such as cut or potted flowers may offer the same for sale only within the designated Farmers Market. No such sales as described above shall be made in any other place within the City.

(2) PERMITS. No person may use the Farmers Market without first obtaining an annual permit from the Chief of Police for a fee as set by Resolution of the City Council, effective from July 1 of each year to June 30 of the next year.

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(3) LOCATION. The area of the Farmers Market shall be designated by the Chief of Police.

(4) TIME AND HOUR OF OPERATION. The Farmers Market shall be open for operation each week day from June 1 through November 1 from 8:00 A.M. to 8:00 P.M. Use of the Market at times other than those set forth herein may be available upon the consent of the Chief of Police.

(5) PENALTY. Any person who offers for sale the items set forth in sub. (1) above outside of the designated Farmers Market or who has not obtained a permit for the use of the Market shall, upon conviction thereof, be subject to a forfeiture of not less than \$10 nor more than \$100, together with the costs of prosecution.

12.11 FOWL & FARM ANIMALS. (1) Purpose. The purpose of this ordinance is to govern the ownership of non-traditional domestic animals in the city. This ordinance is not meant to conflict with any current ordinances governing traditional domestic animals. It also is not meant to supersede any zoning ordinances.

(2) Authority. The Common Council of the City of Black River Falls, Jackson County, Wisconsin, has the specific authority to adopt this Fowl and Farm Animal Ordinance under s. 66.0103 Wis. Stats.

(3) Adoption of Ordinance. This ordinance adopted on proper notice with a quorum and roll call vote by a majority of the Common Council present and voting, provides the authority for the City to regulate the ownership of fowl and other farm animals in the city.

(4) DEFINITIONS. The following definitions shall apply to this section:

- a) "Fowl" means any domestic breed of chicken or guinea hen. No other species of bird shall fall under this definition.
- b) "Livestock" means bovine animals, equine animals, goats, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised fish. In this definition, "swine" does not include potbelly pigs.

(5) RESTRICTIONS ON KEEPING OF FOWL AND OTHER FARM ANIMALS.

- a) No person shall keep any livestock within the city limits.
- b) No person shall keep more than four (4) fowl on their property.
 - 1) None of the allowed fowl shall be roosters or male animals of the species.
- c) No person shall keep more than four (4) rabbits on their property.
- d) No person shall keep more than two (2) potbelly pigs on their property.
- e) All animals that fall under this Section shall remain subject to the other applicable Chapters of the Municipal Code of Black River Falls.

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(6) BUILDINGS. Any person keeping animals under this Section shall provide appropriate shelter for those animals, as required by Chapter 951.14 Wis. Stats. Said shelter must comply with the Zoning Codes for the City of Black River Falls.

(7) Enforcement. This ordinance may be enforced by any law enforcement officer authorized to enforce the laws of the state of Wisconsin.

(8) Penalties. Any person who shall violate any provision of this chapter, or permit or cause a public nuisance, shall be subject to a penalty as provided in sec. 25.04 of this Code.

(9) Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

12.12 VACANT – PREVIOUSLY USED REPEALED WITH ORDINANCE 877

12.13 WIRELESS COMMUNICATION FACILITIES IN THE RIGHT OF WAY.

(1) Definitions: For the purposes of this Chapter, the terms below shall have the following meanings:

- (a) “Administrator” means the City Administrator or his or her designee.
- (b) “Application” means a formal request, including all required and requested documentation and information, submitted by an applicant to the City of Black River Falls (the “City”) for a wireless permit.
- (c) “Applicant” means a person or entity filing an application for a wireless permit under this Chapter.
- (d) “Base Station,” consistent with 47 C.F.R. § 1.6100(b)(1), means a structure or wireless equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. This definition does not include towers or any equipment associated with a tower.
- (e) “Eligible Facilities Request,” consistent with 47 C.F.R. § 1.6100(b)(3), means any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (i) collocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission equipment.
- (f) “FCC” means the Federal Communications Commission.
- (g) “Governmental Pole,” consistent with Wis. Stat. § 66.0414(1)(n), means a utility pole that is owned or operated by the City in the right-of-way.
- (h) “Historic District,” consistent with Wis. Stat. § 66.0414(3)(c)5, means an area

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designated as historic by the City listed on the national register of historic places in Wisconsin, or listed on the state register of historic places.

(i) “Right-of-Way” means the surface of, and the space above and below the entire width of an improved or unimproved public roadway, highway, street, bicycle lane, landscape terrace, shoulder, side slope, public sidewalk, or public utility easement over which the City exercises any rights of management and control or in which the City has an interest.

(j) “Small Wireless Facility,” consistent with 47 C.F.R. § 1.6002(l), means a facility that meets each of the following conditions:

(1) The structure on which antenna facilities are mounted, measured from ground level:

i. is 50 feet or less in height, or

ii. is no more than 10 percent taller than other adjacent structures, or

iii. is not extended to a height of more than 50 feet or by more than 10 percent above its preexisting height, whichever is greater, as a result of the collocation of new antenna facilities;

(2) Each antenna (excluding associated antenna equipment) is no more than three cubic feet in volume;

(3) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is cumulatively no more than 28 cubic feet in volume;

(4) The facility does not require antenna structure registration under 47 C.F.R. part 17;

(5) The facility is not located on Tribal land as defined in 36 C.F.R. § 800.16(x); and

(6) The facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified by federal law.

(k) “Support Structure” means any structure in the right-of-way (other than an electric transmission structure) capable of supporting wireless equipment, including a utility pole, a wireless support structure as defined in Wis. Stat. § 66.0414(1)(zp), or a base station.

(l) “Tower,” consistent with 47 C.F.R. § 1.6100(b)(9), means any structure built for the sole or primary purpose of supporting any Federal Communication Commission (FCC) licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. This definition does not include utility poles.

(m) “Transmission Equipment,” consistent with 47 C.F.R. § 1.6100(b)(9), means equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial

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or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

(n) “Underground District,” consistent with Wis. Stat. § 66.0414(3)(c)5, means an area designated by the City in which all pipes, pipelines, ducts, wires, lines, conduits, or other equipment, which are used for the transmission, distribution, or delivery of electrical power, heat, water, gas, sewer, or telecommunications equipment, are to be located underground.

(o) “Utility Pole,” means a pole that is used in whole or in part by a communications service provider; used for electric distribution, lighting, traffic control, signage, or a similar function; or used for the collocation of small wireless facilities. “Utility pole” does not include a wireless support structure or an electric transmission structure.

(p) “Utility Pole for Designated Services” means a utility pole owned or operated in a right-of-way by the City that is designed to, or used to, carry electric distribution lines, or cables or wires for telecommunications, cable, or electric service.

(q) “Wireless Equipment” means an antenna facility at a fixed location that enables wireless services between user equipment and a communications network, and includes all of the following: (a) equipment associated with wireless services; (b) radio transceivers, antennas, or coaxial, metallic, or fiber-optic cable located on, in, under, or otherwise adjacent to a support structure; (c) regular and backup power supplies; (d) equipment that is comparable to equipment specified in this definition regardless of technical configuration. “Wireless Equipment” does not include (a) the structure or improvements on, under, or within which the equipment is collocated; (b) wireline backhaul facilities; or (c) coaxial, metallic, or fiber-optic cable that is between utility poles or wireless support structures or that is not adjacent to a particular antenna. The definition of “Wireless Equipment” in this ordinance is consistent with the definition of (r) “wireless facility” in Wis. Stat. § 66.0414(1)(z).

(s) “Wireless Facility” or “Facility” means an installation at a fixed location in the right-of-way consisting of wireless equipment and the support structure, if any, associated with the wireless equipment.

(t) “Wireless Infrastructure Provider” means any person or entity, other than a wireless services provider, that builds or installs wireless communications transmission equipment, antenna equipment, or wireless support structures.

(u) “Wireless Permit” or “Permit” means a permit issued pursuant to this Chapter and authorizing the placement or modification of a wireless facility of a design specified in the permit at a particular location within the right-of-way, and the modification of any existing support structure to which the wireless facility is proposed to be attached.

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- (v) “Wireless Provider” means a wireless infrastructure provider or a wireless services provider.
- (w) “Wireless Regulations” means those regulations adopted pursuant to Section 5(b)(1) to implement the provisions of this Chapter.
- (x) “Wireless Services” means any service using licensed or unlicensed wireless spectrum, including the use of a Wi-Fi network, whether at a fixed location or by means of a mobile device.
- (y) “Wireless Service Provider” means a person or entity that provides wireless services.

Definitions in this Section may contain quotations or citations to 47 C.F.R. §§ 1.6100 and 1.6002 and Wis. Stat. § 66.0414. In the event that any referenced section is amended, creating a conflict between the definition as set forth in this Chapter and the amended language of the referenced section, the definition in the referenced section, as amended, shall control.

(2) Purpose

In the exercise of its police powers, the City has priority over all other uses of the right-of-way. The purpose of this Chapter is to provide the City with a process for managing, and uniform standards for acting upon, requests for the placement of wireless facilities within the right-of-way consistent with the City’s obligation to promote the public health, safety, and welfare; to manage the right-of-way; and to ensure that the public’s use is not obstructed or incommoded by the use of the right-of-way for the placement of wireless facilities. The City recognizes the importance of wireless facilities to provide high-quality communications and internet access services to residents and businesses within the City. The City also recognizes its obligation to comply with applicable Federal and State laws regarding the placement of wireless facilities in the right-of-way including, without limitation, the Telecommunications Act of 1996 (47 U.S.C. § 151 et seq.), Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Wis. Stat. § 182.017, Wis. Stat. § 196.58, and Wis. Stat. § 66.0414, as amended, and this Chapter shall be interpreted consistent with those provisions.

(3) Scope

- (a) Applicability. Unless exempted by Section 3(b), below, every person who wishes to place a wireless facility in the right-of-way or modify an existing wireless facility in the right-of-way must obtain a wireless permit under this Chapter.
- (b) Exempt Facilities. The provisions of this Chapter (other than Sections 10-13) shall not be applied to applications for the following:
 - (1) Installation, maintenance, operation, or replacement of a small wireless facility strung on cables between two existing utility poles in compliance with the National Electrical Safety Code, provided that the small wireless facility does not

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exceed 24 inches in length, 15 inches in width, and 12 inches in height and has no exterior antenna longer than 11 inches.

(2) Installation of a mobile cell facility (commonly referred to as “cell on wheels” or “cell on truck”) for a temporary period in connection with an emergency or event, but no longer than required for the emergency or event, provided that installation does not involve excavation, movement, or removal of existing facilities.

(3) Placement or modification of a wireless facility by City staff or any person performing work under contract with the City.

(4) The replacement of an existing small wireless facility with a small wireless facility that is substantially similar to, or the same size or smaller than, the existing small wireless facility, provided that there is no change to the support structure on which the small wireless facility is placed.

(5) Routine maintenance of a wireless facility.

(c) Placement on City Owned or –Controlled Support Structures. Any applicant who wishes to place wireless equipment on a support structure owned or controlled by the City including governmental poles and utility poles for designated services, must obtain a wireless permit under this Chapter and enter into an attachment agreement with the City. The agreement shall include provisions regarding make-ready work and specify the compensation to be paid to the City for use of the support structure in accordance with the standards set out in Wis. Stat. § 66.0414(4), as amended. Unless prohibited by state or federal law, the person or entity seeking the agreement shall reimburse the City for all costs the City incurs in connection with its review of and action upon the request for an agreement.

(4) Nondiscrimination

In establishing the rights, obligations, and conditions set forth in this Chapter, it is the intent of the City to treat each applicant and right-of-way user in a competitively neutral and nondiscriminatory manner, to the extent required by law, while taking into account the unique technologies, situation, and legal status of each applicant or request for use of the right-of-way.

(5) Administration

(a) Administrator. The administrator is responsible for administering this Chapter.

(b) Powers. As part of the administration of this Chapter, the administrator may:

(1) Adopt wireless regulations governing the placement and modification of wireless facilities in addition to but consistent with the requirements of this Chapter, including regulations governing collocation, the resolution of conflicting

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applications for placement of wireless facilities, and aesthetic standards. The regulations must be published in advance of their enforcement.

- (2) Interpret the provisions of the Chapter and the wireless regulations.
- (3) Develop forms and procedures for submission of applications for wireless permits consistent with this Chapter.
- (4) Collect any fee required by this Chapter.
- (5) Establish deadlines for submission of information related to an application, and extend or shorten deadlines where appropriate and consistent with federal laws and regulations.
- (6) Issue notices of incompleteness or requests for information in connection with any wireless permit application.
- (7) Select and retain an independent consultant or attorney with expertise in telecommunications to review any issue that involves specialized or expert knowledge in connection with any permit application.
- (8) Coordinate and consult with other City staff, committees, and governing bodies to ensure timely action on all other required permits under Section 6(b)(11) of this Chapter.
- (9) Negotiate attachment agreements for the placement of wireless equipment on governmental poles or utility poles for designated.
- (10) Subject to appeal as provided in Section 8(d) of this Chapter, determine whether to grant, grant subject to conditions, or deny an application.
- (11) Take such other steps as may be required to timely act upon wireless permit applications, including issuing written decisions and entering into agreements to mutually extend the time for action on an application.

(6) Application

- (a) Format. Unless the wireless regulations provide otherwise, the applicant must submit both a paper copy and an electronic copy (in a searchable format) of any application, as well as any amendments or supplements to the application or responses to requests for information regarding an application, to the Administrator. An application is not complete until both the paper and electronic copies are received by the Administrator.
- (b) Content. In order to be considered complete, an application must contain:
 - (1) All information required pursuant to the wireless regulations.
 - (2) A completed application cover sheet signed by an authorized representative of the applicant.
 - (3) The name of the applicant (including any corporate or trade name), and the name, address, email address, and telephone number of a local representative and of all duly authorized representatives and consultants acting on behalf of the

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applicant with respect to the filing of the application. If the applicant is a wireless infrastructure provider, the name and contact information for the wireless service provider(s) that will be using the wireless facility must also be provided.

(4) A statement of which state or federal deadline(s) apply to the application.

(5) A separate and complete description of each proposed wireless facility and the work that will be required to install or modify it, including but not limited to detail regarding proposed excavations, if any; detailed site plans showing the location of the facility and technical specifications for each element of the facility, clearly describing the site and all structures and equipment at the site before and after installation or modification and identifying the owners of such preexisting structures and equipment; and describing the distance to the nearest residential dwelling unit. Before and after 360-degree photo simulations must be provided for each facility.

(6) A certification by the applicant that the wireless facility will not materially interfere with the safe operation of traffic control equipment or sight lines or clear zones for transportation of pedestrians, and will fully comply with the federal Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement.

(7) A certification by the applicant that the wireless facility will comply with relevant FCC regulations concerning radio frequency emissions from radio transmitters and unacceptable interference with public safety spectrum, including compliance with the abatement and resolution procedures for interference with public safety spectrum established by the FCC set forth in 47 C.F.R. §§ 22.97 to 22.973 and 47 C.F.R. §§ 90.672 to 90.675.

(8) A statement that the wireless facility will comply with the state electrical wiring code, as defined in Wis. Stat. § 101.80(4), as amended; the state plumbing code specified in Wis. Stat. § 145.13, as amended; the fire prevention code under Wis. Admin. Code § SPS 314, as amended; the Wisconsin commercial building code under Wis. Admin. Code §§ SPS 361 to 366, as amended; the Wisconsin uniform dwelling code under Wis. Admin. Code §§ SPS 320 to 325, as amended; and all local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons.

(9) A structural report performed by a professional engineer registered in the State of Wisconsin evidencing that the support structure on which the wireless equipment will be mounted will structurally support the equipment, or that the structure may and will be modified to meet structural requirements, in accordance with applicable codes, including the National Electric Safety Code and the National Electric Code.

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(10) If the support structure on which the wireless equipment will be mounted is owned by a third party, a certification that the applicant has permission from the owner to mount its equipment on the structure. This is not required if the support structure is a governmental pole or a utility pole for designated services, as permission will be evidenced by the executed attachment agreement referenced in Section 3(c).

(11) To the extent that filing of the wireless permit application establishes a deadline for action on any other permit that may be required in connection with the wireless facility, the application must include complete copies of applications for every required permit (including without limitation electrical permits, building permits, traffic control permits, and excavation permits), with all engineering completed.

(12) Payment of all required fees.

(c) Waivers. Requests for waivers from any requirement of this Section 6 shall be made in writing to the Administrator. The Administrator may grant a request for waiver if it is demonstrated that, notwithstanding the issuance of the waiver, the City will be provided with all information necessary to understand the nature of the construction or other activity to be conducted pursuant to the wireless permit sought.

(d) Eligible Facilities Requests. If the applicant asserts in writing that its application is an eligible facilities request, the City will only require the applicant to provide that information set forth in subsection (b) to the extent reasonably related to determining whether the request meets the definition of “eligible facilities request” under 47 C.F.R. § 1.6100(b)(3). The applicant will be required to submit evidence that the application relates to an existing tower or base station that has been approved by the City. Before and after 360-degree photo simulations must be provided with detailed specifications demonstration that the modification does not substantially change the physical dimensions of the existing approved tower or base station.

(e) Fees. Applicant must pay an application fee in an amount set by the Common Council to allow recovery of the City’s direct costs of processing the application, subject to the limits contained in state and federal law, including Wis. Stat. § 66.0414(3)(d), as amended. Additional fees may include a municipal pole attachment fee, an other-than-municipal pole contact fee (if applicable), and an annual ROW Use fee. Additional costs may be applicable for any make-ready work, if needed. Applicable fees are found in Appendix A. Fees are subject to change by approval of the City Council, within legally established limits.

“Make-Ready” Work – If any application requires the owner of the pole/structure to incur costs to prepare the pole/structure to support the SWF, the owner shall provide a good faith estimate of the costs to the applicant, including the cost for pole replacement, if

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necessary. The applicant must pay the costs of the estimate to the owner before any “make-ready” work is completed. When the “make-ready” work is complete, the owner will calculate actual costs and either bill for costs above the estimate or refund the balance overpaid from the estimate. *Wis. Stats. 66.0414(4)(f)(g)*

(f) Public Records. Applications are public records that may be made publicly available pursuant to state and federal public records law. Notwithstanding the foregoing, the applicant may designate portions of the application materials that it reasonably believes contain proprietary or confidential information by clearly marking each portion of such materials accordingly, and the City shall endeavor to treat the information as proprietary and confidential, subject to applicable state and federal public records laws and the Administrator’s determination that the applicant’s request for confidential or proprietary treatment of the application materials is reasonable. The City shall not be required to incur any costs to protect the application from disclosure.

(7) General Standards

(a) Generally. Wireless facilities shall meet the minimum requirements set forth in this Chapter and the wireless regulations, in addition to the requirements of any other applicable law or regulation.

(b) Regulations. The wireless regulations and decisions on wireless permits shall, at a minimum, ensure that the requirements of this Chapter are satisfied, unless it is determined that the applicant has established that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of telecommunications or personal wireless services, or otherwise violate applicable laws or regulations. If that determination is made, the requirements of this Chapter and the wireless regulations may be waived, but only to the extent required to avoid the prohibition.

(c) Standards.

(1) Wireless facilities shall be installed and modified in a manner that:

- (A) Minimizes risks to public safety;
- (B) Ensures that placement of wireless equipment on existing support structures is within the tolerance of those structures;
- (C) Ensures that new support structures will not be installed when the applicant has the right to place its wireless facility on an existing structure on reasonable terms and conditions and placement in that location is technically feasible and not materially more expensive;
- (D) Avoids installation or modification of a utility pole that would exceed the height limits set forth in Wis. Stat. § 66.0414(2)(e)2, as amended;
- (E) Avoids placement of aboveground wireless facilities in historic districts and underground districts (except for placing equipment on or

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replacing pre-existing support structures, so long as the collocation or replacement reasonably conforms to the design aesthetics of the original support structure);

(F) Avoids placement of wireless facilities in residential areas when commercial or industrial areas are reasonably available;

(G) Maintains the integrity and character of the neighborhoods and corridors in which the facilities are located;

(H) Ensures that the City bears no risk or liability as a result of the installations; and

(I) Ensures that applicant's use does not obstruct or hinder travel, drainage, maintenance, or the public health, safety, and general welfare; inconvenience the public; interfere with the primary uses of the right-of-way; or hinder the ability of the City or other government entities to improve, modify, relocate, abandon, or vacate the right-of-way or any portion thereof, or to cause the improvement, modification, relocation, vacation, or abandonment of facilities in the right-of-way.

(2) In no event may ground-mounted equipment interfere with pedestrian or vehicular traffic and at all times must comply with the requirements of the Americans with Disabilities Act of 1990.

(d) Standard Permit Conditions. All wireless permits, whether granted under this Chapter or deemed granted by operation of state or federal law, are issued subject to the following minimum conditions:

(1) Compliance. The permit holder shall at all times maintain compliance with all applicable Federal, State, and local laws, regulations, and other rules.

(2) Construction Deadline. The permit holder shall commence the activity authorized by the permit no later than 365 days after the permit is granted and shall pursue work on the activity until completion.

(3) Contact Information. The permit holder shall at all times maintain with the City accurate contact information for the permit holder and all wireless service providers making use of the facility, which shall include a phone number, mailing address, and email address for at least one natural person.

(4) Emergencies. The City shall have the right to support, repair, disable, or remove any elements of the facilities in emergencies or when the facility threatens imminent harm to persons or property.

(5) Indemnification. The permit holder, by accepting a permit under this Chapter, agrees to indemnify and hold harmless the City its elected and appointed officials, officers, employees, agents, representatives, and volunteers (collectively, the "Indemnified Parties") from and against any and all liability and loss from

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personal injury or property damage resulting from or arising out of, in whole or in part, the use or occupancy of rights-of-way by the permit holder or anyone acting under its direction or control or on its behalf arising out of the rights and privileges granted under this Chapter, even if liability is also sought to be imposed on one or more of the Indemnified Parties. The obligation to indemnify, and hold harmless the Indemnified Parties shall be applicable even if the liability results in part from an act or failure to act on the part of one or more of the Indemnified Parties. However, the obligation does not apply if the liability results from the sole negligence or willful misconduct of an Indemnified Party.

(6) Adverse Impacts on Adjacent Properties. The permit holder shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification, or removal of the facility.

(7) General Maintenance. The wireless facility and any associated structures shall be maintained in a neat and clean manner and in accordance with all approved plans and conditions of approval.

(8) Graffiti Removal. All graffiti on facilities shall be removed at the sole expense of the permit holder within 48 hours after notification from the City.

(9) Relocation. At the request of the City pursuant to Section 10 of this Chapter, the permit holder shall promptly and at its own expense permanently remove and relocate its wireless facility in the right-of-way.

(10) Abandonment. The permit holder shall promptly notify the City whenever a facility has not been in use for a continuous period of 60 days or longer and must comply with Section 11 of this Chapter.

(11) Restoration. A permit holder who removes or relocates a facility from the right-of-way or otherwise causes any damage to the right-of-way in connection with its activities under this Chapter must restore the right-of-way in accordance with Section 12 of this Chapter.

(12) Record Retention. The permit holder shall retain full and complete copies of all permits and other regulatory approvals issued in connection with the facility, which includes without limitation all conditions of approval, approved plans, resolutions, and other documentation associated with the permit or regulatory approval. In the event the City cannot locate any such full and complete permits or other regulatory approvals in its official records, and the permit holder fails to retain full and complete records in the permit holder's files, any ambiguities or uncertainties that would be resolved through an examination of the missing documents will be conclusively resolved against the permit holder.

(13) Radio Frequency Emissions. Every wireless facility shall at all times comply

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with applicable FCC regulations governing radio frequency emissions, and failure to comply with such regulations shall be treated as a material violation of the terms of the permit.

(14) Certificate of Insurance. A certificate of insurance sufficient to demonstrate to the satisfaction of the Administrator that the applicant has the capability to cover any liability that might arise out of the presence of the facility in the right-of-way.

(8) Application Processing and Appeal

(a) Rejection for Incompleteness. Notices of incompleteness shall be provided in conformity with state, local, and federal law, including 47 C.F.R. § 1.6003(d) and Wis. Stat. § 66.0414(3)(c), as amended.

(b) Processing Timeline. Wireless permit applications (including applications for other permits under Section 6(b)(11) necessary to place or modify the facility) and appeals will be processed in conformity with the deadlines set forth in state, local, and federal law, as amended, unless the applicant and the City agree to an extension.

(c) Written Decision. In the event that an application is denied (or approved with conditions beyond the standard permit conditions set forth in Section 7(d)), the Administrator shall issue a written decision with the reasons therefor, supported by substantial evidence contained in a written record. If the permit is for a small wireless facility, the applicant may cure the deficiencies identified in the written decision denying the permit and re-submit the application no later than 30 days after receipt without being required to pay an additional application fee.

(d) Appeal to City Council. Any person adversely affected by the decision of the Administrator may appeal that decision to the City Council, which may decide the issues *de novo*, and whose written decision will be the final decision of the City. An appeal by a wireless infrastructure provider must be taken jointly with the wireless service provider that intends to use the wireless facility. If an applicant contends that denial of the application would prohibit or effectively prohibit the provision of service in violation of federal law, or otherwise violate applicable law, the documentation accompanying the appeal must include that contention and provide all evidence on which the applicant relies in support of that claim.

(e) Deadline to Appeal.

(1) Appeals that involve eligible facilities requests must be filed within three business days of the written decision of the Administrator.

(2) All other appeals not governed by Section 8(e)(1), above, must be filed within seven business days of the written decision of the Administrator, unless the Administrator extends the time therefor. An extension may not be granted where extension would result in approval of the application by operation of law.

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(f) Decision Deadline. All appeals shall be conducted so that a timely written decision may be issued in accordance with the applicable deadline.

(9) Revocation

(a) Revocation for Breach. A wireless permit may be revoked for failure to comply with the conditions of the permit or applicable federal, state, or local laws, rules, or regulations. Upon revocation, the facilities for which the permit has been revoked must be removed within 30 days of receipt of written notice from the City. All costs incurred by the City in connection with the revocation, removal, and right-of-way restoration shall be paid by the permit holder.

(b) Failure to Obtain Permit. Unless exempted from permitting by Section 3(b) of this Chapter, a wireless facility installed without a wireless permit must be removed within 30 days of receipt of written notice from the City. All costs incurred by the City in connection with the notice, removal, and right-of-way restoration shall be paid by the entities who own or control any part of the wireless facility.

(10) Relocation

Except as otherwise prohibited by state or federal law, a permit holder must promptly and at its own expense, with due regard for seasonal working conditions and as directed by the City permanently remove and relocate any of its wireless facilities in the right-of-way whenever such relocation is necessary to prevent the wireless facility from interfering with a present or future City use of the right-of-way; a public improvement undertaken by the City an economic development project in which the City has an interest or investment; when the public health, safety, or welfare require it; or when necessary to prevent interference with the safety and convenience of ordinary travel over the right-of-way. Notwithstanding the foregoing, a permit holder shall not be required to remove or relocate its facilities from any right-of-way that has been vacated in favor of a non-governmental entity unless and until that entity pays the reasonable costs of removal or relocation to the permit holder.

(11) Abandonment

(a) Cessation of Use. In the event that a permitted facility within the right-of-way is not in use for a continuous period of 60 days or longer, the permit holder must promptly notify the City and do one of the following:

(1) Provide information satisfactory to the Administrator that the permit holder's obligations for its facilities under this Chapter have been lawfully assumed by another permit holder.

(2) Submit to the Administrator a proposal and instruments for dedication of the facilities to the City. If a permit holder proceeds under this Section 11(a)(2), the City may, at its option:

(A) Accept the dedication for all or a portion of the facilities;

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(B) Require the permit holder, at its own expense, to remove the facilities and perform the required restoration under Section 12; or

(C) Require the permit holder to post a bond or provide payment sufficient to reimburse the City for reasonably anticipated costs to be incurred in removing the facilities and undertaking restoration under Section 12.

(3) Remove its facilities from the right-of-way within one year and perform the required restoration under Section 12, unless the Administrator waives this requirement or provides a later deadline.

(b) Abandoned Facilities. Facilities of a permit holder who fails to comply with Section 11(a) and which, for one year, remain unused shall be deemed to be abandoned.

Abandoned facilities are deemed to be a nuisance. In addition to any remedies or rights it has at law or in equity, the City may, at its option:

(1) abate the nuisance and recover the cost from the permit holder or the permit holder's successor in interest;

(2) take possession of the facilities; and/or

(3) require removal of the facilities by the permit holder or the permit holder's successor in interest.

(12) Restoration

In the event that a permit holder removes or is required to remove a wireless facility from the right-of-way under this Chapter (or relocate it pursuant to Section 10), or otherwise causes any damage to the right-of-way in connection with its activities under this Chapter, the permit holder must restore the right-of-way to its prior condition in accordance with City specifications. However, a support structure owned by another entity authorized to maintain that support structure in the right-of-way need not be removed but must instead be restored to its prior condition. If the permit holder fails to make the restorations required by this Section 12, the City at its option may do such work after providing 15 days' written notice to the permit holder. In that event, the permit holder shall pay to the City, within 30 days of billing therefor, the cost of restoring the right-of-way.

(13) Severability

If any section, subsection, clause, phrase, or portion of this Chapter is for any reason held to be illegal or otherwise invalid by any court or administrative agency of competent jurisdiction, such illegal or invalid portion shall be severable and shall not affect or impair any remaining portion of this Chapter, which shall remain in full force and effect.

12.14 DUMPSTER PERMIT REQUIRED. (1) Unless a permit is obtained and maintained consistent with the requirements of this code, it shall be unlawful for any person to place or allow for placement of dumpsters or refuse containers for the storage of materials discarded or

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used in the process of construction or alteration of buildings in/on any street, alley, highway, sidewalk, parking lot, or other public way or public property within the City without first obtaining a permit.

(1) **Permit.**

- a) Dumpster permits shall only be issued to pre-qualified dumpster contractors.
- b) Permits shall allow the permittee to place any number of dumpsters or refuse containers on public property within the City in accordance with the regulations outlined in Section 1(f) of below during the term of the permit.

(2) **Term.** Dumpster permits shall be valid for 12 months from issuance.

(3) **Fee.** The permit fee shall be paid in advance of receiving the permit. The amount of such fee shall be as established by resolution by the City Council.

(4) **Insurance.**

- (a) Prior to the issuance of a permit for the placement of dumpsters in/on any street, alley, highway, sidewalk, parking lot, or other public way or public property within the City, the permit applicant must furnish the City Clerk satisfactory written evidence that the applicant has in force and will maintain during the term of the permit, public liability insurance in not less than \$200,000.00 for one person, \$500,000.00 for one accident, and property damage insurance of not less than \$100,000.00.
- (b) The applicant shall also furnish to the City a certificate of insurance naming the City of Black River Falls as additional insured and evidence of the same shall be on file with the City Clerk's Office at all times during the terms of the permit.

(5) **Regulations.**

- (a) Each dumpster or refuse container shall have posted thereon the name, address and phone number of the lessor or owner of said dumpster or refuse container.
- (b) Each dumpster or refuse container shall be equipped with reflectorized tape or other reflector devices adequate to warn motorists and others of its presence during night hours.
- (c) No dumpster or refuse container shall be placed in a moving lane of traffic.
- (d) Each permittee shall comply with any order of the City to remove any dumpster or refuse container should the placement or location of the dumpster or refuse container constitute a safety hazard or nuisance.
- (e) No dumpster or refuse container shall be placed so as to interfere with public works construction being performed by the City.

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- (f) The City reserves the right to request the removal of any dumpster or container that they deem would offend the health safety, and/or welfare of the City and or any person or property.

12.15 PENALTY. Except as otherwise specifically provided in this chapter, any person who shall violate any provision of this chapter or any order, rule or regulation made hereunder shall be subject to a forfeiture as provided in sec. 25.04 of this Code.