

## TITLE 7

### Licensing and Regulation

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## CHAPTER 1

### Licensing of Dogs and Regulation of Animals

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#### SEC. 7-1-1 DOG LICENSE REQUIRED; DEFINITIONS.

(a) **License Required.** It shall be unlawful for any person in the City of Plymouth to own, harbor or keep any dog for more than five (5) months of age after July 1 of the license year without complying with the provisions of this Chapter relating to the listing, licensing and tagging of the same.

(b) **Definitions.** In this Chapter, unless the context or subject matter otherwise require:

- (1) "Owner" shall mean any person owning, harboring or keeping a dog or cat and the occupant of any premises on which a dog or cat remains or to which it customarily returns; such person is presumed to be harboring or keeping the dog or cat within the meaning of this Section.
- (2) "At large" means to be off the premises of the owner and not under the control of some person either by leash, but a dog or cat within an automobile of its owner, or in an automobile of any other person with the consent of the owner of said dog or cat, shall be deemed to be upon the owner's premises.
- (3) "Dog" shall mean any canine, regardless of age or sex.
- (4) "Cat" shall mean any feline, regardless of age or sex.
- (5) "Neutered" as used herein as describing a dog or cat shall mean a dog or cat having nonfunctional reproductive organs.
- (6) "Animal" means mammals, reptiles and birds.
- (7) "Cruel" means causing unnecessary and excessive pain or suffering or unjustifiable injury or death.
- (8) "Law Enforcement Officer" has that meaning as appears in Sec. 967.02(5), Wis. Stats., and includes a humane officer under Sec. 58.07, Wis. Stats., but does not include a conservation warden appointed under Sec. 23.10, Wis. Stats.
- (9) "Farm Animal" means any warm-blooded animal normally raised on farms in the United States and used for food or fiber.
- (10) "Pet" means an animal kept and treated as a pet.

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

## **SEC. 7-1-2 RABIES VACCINATION REQUIRED FOR DOGS.**

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

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

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

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

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

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

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

### **SEC. 7-1-3 ISSUANCE OF DOG AND KENNEL LICENSES.**

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

(1) It shall be unlawful for any person in the City of Plymouth to own, harbor or keep any dog more than five (5) months of age without complying with the provisions of Section 174.05 through Section 174.10, Wisconsin Statutes, relating to the listing, licensing and tagging of the same.

(2) The owner of any dog more than five (5) months of age on January 1 of any year, or five (5) months of age within the license year, shall annually, or on or before the date the dog becomes five (5) months of age, pay a license tax and obtain a license.

(3) The minimum license tax under this Section shall be Seven Dollars (\$7.00) for spayed females or neutered males. The minimum fee for un-spayed or un-neutered animals shall be Fourteen Dollars (\$14.00). These amounts shall be reduced by one-half (1/2) if the animal became five (5) months of age after July 1 during the license year. The license year shall commence January 1 and end December 31.

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

(5) The owner shall securely attach the tag to a collar and the collar with the tag attached shall be kept on the dog for which the license is issued at all times, except as provided in Section 7-1-2(e).

(6) The fact that a dog is without a tag attached to the dog by means of a collar shall be presumptive evidence that the dog is unlicensed. Any City law enforcement or humane officer shall seize, impound or restrain any dog for which a dog license is required which is found without such tag attached.

(7) Notwithstanding the foregoing, every dog specifically trained to lead blind or deaf persons is exempt from the dog license tax, and every person owning such a dog shall receive annually a free dog license from the City Clerk-Treasurer upon application therefore.

(b) **Kennels and Pet Shops.**

(1) Definitions. The following definitions shall apply to the terms and words used in this ordinance.

a. Kennels means and includes:

1. Noncommercial Kennels. Any not for profit business that, as a home occupation, under the Zoning Ordinance, keeps, maintains, harbors or possesses more than three (3) dogs or cats, or combinations thereof, over five (5) months of ages for the purpose of housing unwanted dogs and/or cats pending adoption. This term shall exclude the commercial sale and breeding of any such animals. However, the charging of a fee to cover costs for maintenance, health care, neutering and spaying shall not disqualify households from noncommercial kennel status. This term shall apply to animal rescues, animal sanctuaries, "foster homes", and all other animal welfare organizations meeting these qualifications.

2. Commercial Kennels. A for profit business establishment engaged in offering boarding, training and/or breeding services and/or the sale of dogs and/or cats, with the exclusion of veterinary hospitals. Commercial kennels shall include the boarding of dogs for racing purposes.

3. Humane Society. An impoundment facility under §174.046 Wisconsin Statutes.

4. Pet animal means any domesticated or wild animal, including dogs, cats, birds, small rodents or small nonpoisonous reptiles, which is fed, watered, harbored or allowed, by City Ordinances, to be or remain in the City, excluding:

aa. Any hoofed animal

bb. Any animal in a zoo, exhibit or authorized by City Ordinances.

cc. Any animal which is held for use in bona fide scientific research.

b. Pet shop means a retail or wholesale business offering for sale pet animals, excluding commercial kennels.

c. Enclosure(s) means a separate enclosure or cage which segregates an animal from another animal or animals.

d. Veterinary hospital means any establishment in which the practice of veterinary medicine is the primary business.

(2) License Required/Fees. It is unlawful for any person, party, firm or corporation to operate, keep or maintain within the City limits a kennel or pet shop without first having obtained license from the City Council and being in compliance with all provisions of this Ordinance and City Zoning Codes. License applications shall be reviewed, prior to action by the Common Council by the City Clerk/Treasurer. The City Clerk, or designee thereof, shall issue licenses which have been granted by the Common Council.

The fees for license issued hereunder or renewal thereof shall be One Hundred Dollars (\$100.00) for commercial kennels and pet shops and Ten Dollars (\$10.00) for noncommercial kennels per calendar year or fraction thereof.

(3) License/Application.

a. Any applicant for a license or renewal thereof under this Ordinance shall file with the City Clerk a fully executed application on a form prescribed by the City Clerk, accompanied by the annual license fee. The application shall state the maximum number of dogs and/or cats sought to be permitted upon the licensed premises.

b. No licenses or renewal thereof shall issue hereunder until:

1. There has been an inspection by a humane or law enforcement officer of the premises being licensed and a determination by said officer that all requirements of this Ordinance, and other applicable General and Zoning Ordinances, have been met.

2. There is an adequate means of restraining animals from running at large or disturbing the peace.

3. The proposed facilities are located in an appropriate zone under the City Zoning Ordinance and are the subject of an Occupancy Permit, as verified by the City Building Inspector, or designee thereof.

4. The proposed facilities are in compliance with the Building Code and Fire Code, as verified by authorized representatives of enforcing departments.

c. Any license or renewal thereof issued hereunder shall be for a calendar year or portion thereof Licenses must be renewed each calendar year on or before the thirty-first (31st) day of January. Licenses shall not be assignable or transferable either to another person, party, firm or corporation or for another location.

d. When issued, a license shall be displayed in a manner and at a location so as to be readily visible by the public.

e. The Common Council shall license the premises only for such number of dogs and/or cats as the premises to be licensed will reasonably accommodate based upon inspection reports.

(4) License and Rabies Tags. Upon issuing a license hereunder, the City Clerk shall issue a number of tags equal to the number of dogs and/or cats authorized to be kept on the licensed premises. License tags shall be made in a form so that they may be readily distinguishable from the individual license tags for the same year. The licensee shall at all times keep one of such tags, plus a Rabies Tag obtained from veterinarian, attached to the collar of each dog or cat over five (5) months old kept on the licensed premises. License tags may be transferred from one dog or cat to another. No dog or cat bearing such license tag shall be permitted to stray or to be taken anywhere outside the limits of the licensed premises unless it is on leash, except where temporarily unleashed for the purposes of hunting, breeding, trial or show. Humane Societies shall follow the provisions of §174.046, Wisconsin Statutes.

(5) Records. The City Clerk shall make a duplicate list of the names of licensees and the number of dogs and/or cats kept upon each licensed premises and shall deliver one (1) copy of said list to the County Clerk, retaining the other copy for his/her files.

(6) Chapter 174, Wisconsin Statutes. Unless clearly inapplicable, all the provisions of Chapter 174, Wisconsin Statutes, relating to the individual dog license tax, license and tag, shall apply to license tags issued hereunder.

(7) Other Licenses and Permits. The issuance of a license hereunder does not exempt licensee from obtaining and complying with all other applicable State and City licenses and permits, including required Zoning Permits. Licensees who engage in commercial pesticide application must be licensed, certified and at all times maintain compliance with 94.704 and 94.705, Wisconsin Statutes, and Ag 29.11 of the Wisconsin Administrative Code.

(8) General Facility Standards. All licensed premises shall provide the following:

- a. Water and food. Adequate and potable water shall be available at all times to pet animals watering and feeding receptacles shall be cleaned at least once daily.
- b. Storage. Supplies of food and bedding shall be stored and adequately protected against infestation or contamination by vermin. Refrigeration shall be provided for perishable food.
- c. Waste Disposal. Provisions shall be made for the removal and disposal of animal and food wastes bedding dead animals and debris. Disposal facilities shall also be provided and operated as to minimize vermin infestation, odors and disease hazards
- d. Washrooms and Sinks. Facilities such as washrooms, basins or sinks shall be provided to maintain cleanliness among caretakers
- e. Communicable Diseases. Pet animals with potential communicable diseases shall be housed in separate rooms from healthy animals. Pet animals which have a communicable disease shall not be sold or provided for adoption until receiving a clean bill of health from a veterinarian.
- f. Vicious Animals. Vicious animals as defined in the Vicious Animal Ordinance shall not be on a licensed premises.

(9) Indoor Facility Standards. In addition to the requirements of Subsection (8) hereof, indoor facilities licensed hereunder shall provide the following:

- a. Ventilation. Indoor housing for pet animals shall be adequately ventilated to provide for health and comfort of said animals at all times. They shall be provided with fresh air, either by means of windows, doors, vents or air conditioning. Ventilation shall minimize drafts, odors and moisture condensation. Auxiliary ventilation such as exhaust fans and vents or air conditioning shall be provided when the ambient temperature is eighty-five (85°F) degrees Fahrenheit or higher, except where the ambient temperature requirements of the specific species differs.
- b. Lighting. Indoor housing for pet animals shall have ample artificial light which is of good quality and is well-distributed. Such lighting shall provide uniformly distributed illumination of sufficient intensity to permit routine inspection and cleaning during the entire working period.
- c. Interior Surfaces. The interior building surfaces of indoor housing facilities for pet animals shall be constructed and maintained so that they are impervious to moisture and may be readily cleaned.
- d. Drainage. A suitable method shall be provided to rapidly eliminate excess water from indoor housing facilities. If drains are used, they shall be properly constructed and kept in good repair to avoid foul odors there from. If closed drainage systems are used, they shall be equipped with traps and so installed as to prevent any backup of sewage and odors.

e. Dogs five (5) months or older. Dogs five (5) months or older which are housed longer than a twenty-four (24) hour period shall be provided with adequate, separate, cleanable enclosures and shall be permitted exercise periods at least, twice each day for a minimum of five (5) minutes each period unless an exercise run is provided. An exercise run must have an area of twenty (20) square feet for a dog of thirty (30) pounds or less, and a minimum of thirty-six (36) square feet for a dog over thirty (30) pounds.

Subsection c. hereinabove shall not apply to noncommercial kennels.

This Subsection (9) shall not apply to pet shops. Pet shops must adhere to the recommended standards for each type of pet animal as set forth by the Pet Industry Joint Advisory Council (PIJAC).

(10) Outdoor Facility Standards. In addition to the requirements of Subsection (8), outdoor facilities licensed hereunder shall provide the following:

a. Shelter from sunlight. When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to allow all pet animals kept outdoors to protect themselves from the direct rays of the sun.

b. Shelter from rain or snow. Pet animals kept outdoors shall be provided with access to shelter to allow them to remain dry during rain or snow.

c. Shelter from cold winter. Shelter shall be provided for all pet animals kept outdoors when the atmospheric temperature falls below fifty (50°F) degrees Fahrenheit. Sufficient clean bedding material or other means of protection from the weather elements shall be provided when the ambient temperature falls below that temperature to which any such animal is acclimated.

d. Drainage. A suitable method shall be provided to rapidly eliminate excess water.

e. Dogs five (5) months or older. Dogs five (5) months or older which are housed longer than a twenty-four (24) hour period shall be provided with adequate, separate, cleanable enclosures and shall be permitted exercise periods at least twice each day for a minimum of five (5) minutes each period, unless an exercise run is provided. An exercise run must have an area of twenty (20) square feet for a dog of thirty (30) pounds or less, and a minimum of thirty-six (36) square feet for a dog over thirty (30) pounds in weight.

f. Individual enclosures. Individual enclosures shall not be required for noncommercial kennels.

(11) Enclosures. Enclosures shall:



- a. Not be required for noncommercial kennels.
- b. Be structurally sound and maintained in good repair to protect the pet animals from injury, to contain them, and to keep predators out. They shall be constructed of a material that is easily cleanable and maintained so as to enable the pet animals to remain dry and clean and provide convenient access to clean food and water.
- c. Be constructed and maintained so as to provide sufficient space to allow each pet animal to turn about freely and to easily stand, sit, and lie in a comfortable, natural position.
- d. Be used for housing not more than one (1) animal unless requested by the owners of each pet animal housed therein.
- e. Subsections c. and d. above shall not apply to pet animals being housed for medical or grooming purposes, or for less than seventy-two (72) hours.

(12) Sanitation/Cleaning of Enclosures.

- a. Excreta shall be removed from enclosures often as necessary to prevent contamination of the pet animals contained therein and to reduce disease, hazards and odors. When a hosing or flushing method is used for cleaning an enclosure, the pet animals shall be removed during the cleaning process and adequate measures be taken to protect the pet animals in other enclosures from being contaminated with water and other wastes.
- b. Enclosures, rooms, hard-surfaced pens and runs shall be cleaned by washing all soiled surfaces with a safe and effective disinfectant.
- c. Pens and runs shall be constructed of concrete, asphalt or impervious material, or other material approved by the humane or law enforcement officer or his or her designee.
- d. An effective program for the control of insects, ectoparasites, avian and mammalian pests shall be established and maintained where a problem.

(13) Feeding.

- a. Pet animals which are housed for more than twenty-four (24) hours shall be fed at least once a day, except as otherwise might be required to provide adequate veterinary care. The food shall be free from contamination, wholesome, palatable and of sufficient quality and nutritive value to meet the normal daily requirements for the condition and size of each pet animal.
- b. Food receptacles shall be accessible to the pet animal and shall be located so as to minimize contamination by excreta. Feeding pans shall be durable and kept clean. The food receptacles shall be cleaned

daily. Disposable food receptacles may be used, but must be discarded after each feeding. Self-feeders may be used for the feeding of dry food and they shall be sanitized once per week to prevent molding deterioration or caking of feed.

(14) Enforcement.

a. Any person, party, firm or corporation who violates any of the provisions of this Ordinance, or shall hinder, impede or obstruct an enforcing officer in the performance of his/her duty of enforcement shall, upon conviction thereof, forfeit not more than Three Hundred Dollars (\$300.00), plus the cost of prosecution.

b. Humane and law enforcement officers shall be responsible for the enforcement of this Ordinance, and shall have the authority and duty to enter any licensed premises during regular business hours to inspect the same, with respect to businesses open at least forty (40) hours per week. In the absence of regular, business hours, inspections shall be made at a reasonable hour. In the event of an emergency, an inspection may be made at any time.

c. The provisions of this Ordinance which are enforceable against a licensee shall be equally enforceable against a non-licensee who is required to be licensed hereunder.

(15) Suspension, Revocation or Denial of Renewal of License.

a. The City Common Council shall have the right to suspend or revoke any license once granted or deny annual renewal thereof when it appears that any operator or licensee has violated any of the provisions of this Ordinance, or any Ordinance of the City, or law, rule or regulation of the State of Wisconsin or the United States, involving cruelty or mistreatment of pet or other animals, or the unlawful possession of any animal. Prior to suspension or revocation of any license or the denial of an application for a renewal thereof, written notice of the reason for such action shall be given to the applicant or licensee by the City Clerk. Such notice shall state that the applicant or licensee may request a hearing on such decision by the City Common Council within ten (10) days of receiving the notice.

b. Should the applicant or licensee request a hearing within such ten (10) day period, the applicant or licensee shall be notified in writing by the City Clerk of the time and place of the hearing, and the license shall remain in effect until the City Common Council determines that grounds exist for such action.

c. Disciplinary hearings, including non-renewal, suspension and revocation hearings, shall be held before the Common Council. The Common Council shall provide the complainant and the licensee with a copy of the complainant. The Common Council shall determine whether the arguments shall be presented orally or in writing, or both. If the

Common Council finds the complaint to be true, or if there is no objection to a recommended suspension, revocation or non-renewal, the licensee shall be suspended, revoked or not renewed as provided by law. If the Common Council finds the complaint untrue, the proceedings shall be dismissed without cost to the accused. The City Clerk shall give notice of each suspension, revocation or non-renewal to the party whose license is affected.

State Law Reference: Section 174.053, Wis. Stats.

**SEC. 7-1-4 LATE FEES.<sup>1</sup>**

The City Clerk-Treasurer shall assess and collect a late fee of Thirty Dollars (\$30.00) from every owner of a dog five (5) months of age or over if the owner failed to obtain a license prior to April 1 of each year, or within thirty (30) days of acquiring ownership of a licensable dog or if the owner failed to obtain a license on or before the dog reached licensable age. Said late fee shall be charged in addition to the required license fee.

**SEC. 7-1-5 RABIES QUARANTINE.**

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

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

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

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

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

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

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<sup>1</sup> Amended by Ordinance No. 9 of 2013. Enacted on September 24, 2013.

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

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

(3) Risk to animal health.

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

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

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

(e) **Delivery of Carcass; Preparation; Examination by Laboratory of Hygiene.** An officer who kills an animal shall deliver the carcass to a veterinarian or local health department. The veterinarian or local health department shall prepare the carcass, properly prepare and package the head of the animal in a manner to minimize deterioration, arrange for delivery by the most expeditious means feasible of the head of

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

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

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

#### **SEC. 7-1-6 DANGEROUS AND VICIOUS DOGS.<sup>2</sup>**

(a) **Definitions.**

(1) Vicious Dogs. Except as provided in subparagraph (3), Exceptions, Vicious dogs include any of the following:

a. Any dog, except one assisting a peace officer in law enforcement duties that has done any of the following:

1. Caused a serious injury to or killed a person or domestic animal;
2. Caused an injury by biting a person in the face or neck;
3. Attacked a person in such a manner as to require defensive action to prevent bodily injury or property damage when such person is conducting himself or herself peacefully and lawfully on property other than that of the owner or custodian of the attacking dog;
4. Attacked a person in such a manner as to result in property damage or in an injury to the person when such person is conducting himself or herself peacefully and lawfully on property other than that of the owner or custodian of the attacking dog;
5. Attacked without provocation another animal or fowl on property other than that of the owner or custodian of the attacking dog;

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<sup>2</sup> Repealed and Recreated by Ordinance No. 5 of 2015. Enacted November 24, 2015.

- b. Any dog owned, harbored, or trained primarily or in part for the purpose of fighting;
  - c. Any dog declared to be vicious or previously found to be vicious pursuant to paragraph (b);
  - d. Any dog declared to be vicious in another municipality, county or state.
- (2) Dangerous Dogs. Except as provided in subparagraph (3), Exceptions, dangerous dogs include any of the following:

- a. Any dog, except one assisting a peace officer in law enforcement duties, that has done any of the following:
  - 1. Caused injury to a person or domestic animal that is less severe than a serious injury;
  - 2. Chased or attacked any human being or domestic animal without provocation;
  - 3. Demonstrated an approach or apparent attitude of attack toward any human being or domestic animal in a menacing fashion, without provocation;
  - 4. Demonstrated a trait or characteristic or a generally known reputation for dangerousness;
  - 5. Demonstrated a known propensity, tendency or disposition to attack, cause injury to, or otherwise threaten the safety of humans or other domestic pets or animals without provocation;
  - 6. Demonstrated any other behavior which constitutes a threat of bodily harm to a person when such person is conducting himself or herself peacefully and lawfully;
  - 7. Run at large three or more times in any 12-month period;
- b. Any dog declared to be dangerous or previously found to be dangerous pursuant to paragraph (b);
- c. Any dog declared to be dangerous in another municipality, county, or state.

(3) Exceptions to "dangerous" or "vicious" definition.

- a. A dog shall not be deemed to be dangerous or vicious if it bites, attacks or menaces any person or animal:
  - 1. To defend its owner, custodian or another person from an unjustified attack by a person or animal;

2. To protect its young, its food, or another animal from a trespasser or an attack by a person or animal;
3. To defend itself against any person or animal that has tormented, assaulted or abused it;
4. To defend its owner's or custodian's property against trespassers;
5. That is actively committing or attempting to commit a crime;
6. That is violating or attempting to violate an ordinance that protects persons or property.

b. No dog shall be deemed dangerous or vicious solely based upon its breed.

(4) "Police Officer" shall include a humane officer.

(5) "Serious Injury" shall mean any physical injury that results in muscle tears or disfiguring lacerations or requires multiple sutures or cosmetic surgery.

(6) "Owner" or "custodian" of a dog includes any person permanently or temporarily entrusted with the custody or care of the dog or any person who in any way exercises any care for or control of the dog, including providing shelter or food.

**(b) Declaration of Vicious or Dangerous Dog; Notification and Hearing.**

(1) Officer Determination. If a police officer determines that a dog is dangerous or vicious as defined in this Section, he or she may declare the dog to be a dangerous or vicious dog. The officer shall immediately inform the owner or custodian in writing, by personal service or certified mail, of such determination, and the reasons therefor. The determination shall be dated, and shall advise such person of the right to have such determination reviewed, the time within such review may be obtained, and the officer or person to whom a request for review shall be addresses.

(2) Contesting Determination. If an owner or custodian contests the determination of the dog as dangerous or vicious, the owner may request a hearing in writing, mailed or delivered to the municipal judge within five (5) days of issuance of the notice. The request for review shall state the ground or grounds upon which the person aggrieved contends that the decision shall be modified or reversed.

(3) Hearing. The hearing before the municipal court judge shall be held within fifteen (15) days of receipt of the request for hearing. Notice of the hearing shall be provided to the owner or custodian, by mail or personal service, at least ten (10) days prior to the hearing date. Any interested party may present

evidence as to whether the dog is dangerous or vicious. At such a hearing, the determination of the police officer shall be termed an initial determination.

(4) Written Evidence. The owner or custodian may file with the request for a hearing written evidence and argument in support of the person's position with respect to the initial determination.

(5) Conduct of Hearing. At the hearing, the owner or custodian and the municipal authority may be represented by an attorney and may present evidence and call and examine witnesses and cross-examine witnesses of the other party. Such witnesses shall be sworn by the municipal court clerk. The court may issue subpoenas. An attorney of record may issue a subpoena to compel the attendance of a witness or the production of evidence. A subpoena issued by an attorney must be in substantially the same form as provided in W.S.A., § 805.07(4), and must be served in the manner provided in W.S.A. § 805.07(5). The attorney shall, at the time of issuance, send a copy of the subpoena to the municipal court. A record of the hearing shall be made.

(6) Municipal Judge Determination. The municipal court judge may affirm, reverse, or modify the initial determination and shall, within twenty (20) days of completion of the hearing mail or deliver to the owner or custodian a copy of the judge's decision on review, which shall state the reasons for such decision. Such decision shall be a final determination. The decision shall advise the owner or custodian of the right to seek judicial review pursuant to W.S.A., § 68.13.

(7) Mitigating Factors. Evidence of provocation of the dog that is the subject of the hearing by a person or animal bitten or injured by the dog is a potentially mitigating factor. If the provocation is purposeful or substantial, the judgment may accept any alleged bite or injury as self-defense by the subject dog and not classify the dog as dangerous or vicious.

(8) Presumption of Unprovoked Attack. The attack, chase, or injury of a person or domestic animal by the subject dog shall, in the absence of contrary evidence, be presumed to be due to an unprovoked attack.

(c) **Restriction on Vicious Dogs**. No person may do any of the following:

(1) Harbor, keep, maintain, or permit to remain about his or her premises any vicious dog with the City of Plymouth.

(2) Bring into the City of Plymouth any dog that has previously been declared vicious in another municipality, county, or state.

(d) **Restrictions on Dangerous Dogs**. No person may own, be the custodian of, harbor, keep, maintain, or permit to remain about his or her premises any dangerous dog, except in strict compliance with the regulations below.

(1) Confinement. All dangerous dogs shall at all times be confined in an enclosure in accordance with paragraph (f)(1), below. The only exceptions to this requirement are when it is necessary for the owner or keeper to obtain veterinary care for the dog, when it is necessary to transport the animal in a



vehicle, when in compliance with the leash and muzzle requirements in paragraph (f)(2), below, or when its owner has secured express written approval from the police chief. Such exceptions shall only apply if the dangerous dog is under the direct control and supervision of the owner or custodian of the dog who is at least eighteen (18) years of age and competent and capable to control and manage the dog. In no circumstances shall a dangerous dog be transported in the open bed of a truck or in a vehicle from which it can escape. Housing a dangerous dog in a vehicle for purposes other than transport shall be a violation of these provisions requiring adequate confinement.

(2) Sign Display. The owner or custodian of a dangerous dog shall display in a prominent place on his or her premises a warning sign in letters no less than two inches high, stating that there is a dangerous dog on premises and a symbol to warn children of the presence of a dangerous animal. The signs shall be clearly visible and capable of being read from any public property, street or highway adjacent to the premises. A similar sign shall also be posted on any outdoor pen or kennel or enclosure and on the fence of a yard where the dangerous dog is kept.

(3) Microchip. The owner or custodian of a dangerous dog shall provide for the implantation of a device which can later be detected to aid in the proper identification of the animal.

(4) Registration. The owner or custodian of a dangerous dog shall initially register the dog with the police department no more than ten days after the dog become subject to the terms of this Section. Additionally, the owner or custodian of a dangerous dog shall, prior to April 1, annually register the dog with the police department. At the time of registering the dangerous dog, the owner or custodian shall provide the following:

- a. A current color photograph of the animal;
- b. Proof of current license and rabies certificate;
- c. Proof of liability insurance as required by in subsection (5), below;
- d. Written proof from a licensed veterinarian that the animal has been spayed or neutered; and
- e. Payment of a \$75.00 registration fee.

Nothing in this paragraph shall relieve owners or custodians from the dog licensing requirements set forth in Section 7-1-3(a), Dog Licenses, of the City Code.

(5) Liability Insurance. The owner or custodian of a dangerous dog shall purchase and maintain liability insurance in the amount of \$300,000.00 insuring the owner for any personal injuries or physical damage inflicted by the dangerous dog. In addition, the policy of insurance shall require a minimum of ten (10) days' notice to the City prior to any cancellation or termination of such policy. In lieu of the liability insurance requirement, the owner of a dangerous dog may present

evidence of a surety bond in the sum of at least \$300,000.00, payable to any person injured or whose property has been damaged by a dangerous dog.

(e) **Notifications to Police Department.**

(1) No person may sell, give away, or transfer ownership or custodianship of a dangerous or vicious dog without first advising the police department in writing, including the name and address of the person to whom the dangerous or vicious dog is given.

(2) The owner or custodian of a dangerous or vicious dog shall immediately notify the police department if the dog escapes, is unconfined, has attacked another animal or human being or has died.

(f) **Restraint and Confinement of Dangerous Dogs.**

(1) Enclosure, pen or confinement. A dangerous dog shall be securely confined indoors or, if outdoors, in a secure, fenced yard or securely enclosed and locked pen, kennel or similar enclosure on the premises of the owner or custodian. No owner or custodian of a dangerous dog shall fail to securely confine the dog in compliance with the regulations below. A dangerous dog may be exempted from said requirements upon express written approval of the police chief.

a. **Indoors.** No dangerous dog shall be kept on a porch, patio, or in any part of a house or structure that would allow the dog to exit the building of its own volition. No dangerous 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.

b. **Outdoor Enclosures.** No dangerous dog shall be kept outdoors unless it is on the property of the owner or custodian and confined in one of the following manners:

1. **Fenced Yard.** Any fenced yard shall be secure and fully enclosed, with only one entrance. The fence must be at least six feet tall, built in a stockade style, completely opaque, and embedded into the ground to a depth of no less than eighteen (18) inches. The entrance must be locked with a key or combination lock when any dog is inside the yard and the enclosure must be secured against the unauthorized entry by a minor on their own accord. No part of a property line fence shall be part of such an enclosure unless the entire property line fence forms the enclosure and conforms in its entirety to the requirements of this Section.

2. **Pen or Kennel.** Any outdoor pen, kennel or similar enclosure must be childproof from the outside and dog proof from the inside. It must be located at least ten feet away from any lot line. A strong metal double fence with adequate space between the fences (at least two feet) must be provided so that a child

cannot reach into the dog enclosure. The pen, kennel or structure shall have secure sides and top attached to the sides. A structure used to confine a dangerous dog shall be locked with a key or combination lock. 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 two feet.

3. All structures shall comply with zoning and building regulations of the City.

(2) **Leash and Muzzle Requirements.** In addition to the other requirements of this Section, the owner or custodian of a dangerous dog may permit the dog to go outdoors outside of its outdoor enclosure only if the dog is securely leashed on a leash no more than four feet in length, attached to a prong training collar and held by a person who is at least eighteen (18) years of age and competent and capable to physically control and manage the dog. The leash shall not be attached to inanimate objects such as trees, posts and buildings. A dangerous dog outdoors on a leash outside the dog's kennel shall be muzzled in a humane way by a muzzling device sufficient to prevent the animal from biting persons or other animals. A dangerous dog shall not be required to be muzzled when shown in a sanctioned American Kennel Club show.

(g) **Waiver by Police Chief.** Upon written application by the owner or custodian of a dangerous dog, the police chief may, in his or her discretion, waive any requirement specified in subsection (d) or (e) that is deemed to be inappropriate for a particular dangerous animal.

(h) **Removal or Impound of Vicious Dog.** Any vicious dog may be ordered impounded or removed from the city for violations of this Chapter. The animal's owner shall be responsible for costs of impoundment or removal.

(i) **Destruction of Dog.** Any dog that has caused serious injury to a person or domestic animal on two separate occasions, without reasonable cause, may be destroyed as a result of judgment rendered by a court of competent jurisdiction, as specified under W.S.A., § 174.02(3). The animal's owner shall be responsible for costs of destruction.

(j) **Dogs Running at Large.** No owner or custodian shall allow any dog under his or her custody, control or ownership to run at large within the City. Any dog which is off the property of its owner or custodian shall be on a leash not exceeding six (6) feet in length and under control of a person physically able to control it. Any dog running at large unlicensed and required by state law or City Ordinance to be licensed may be seized and impounded by a police officer.

(k) **Continuing Violation.** Every day that a violation of this Section continues shall constitute a separate offense. Additionally, any person who violates this Section shall pay all expenses including shelter, food, handling, veterinary care, and expert testimony fees necessitated by enforcement of this Section.

## **SEC. 7-1-7 IMPOUNDMENT OF ANIMALS.**

(a) **Animal Control Agency.**

(1) The City of Plymouth may contract with or enter into an agreement with such person, persons, organization or corporation to provide for the operation of an animal shelter, impoundment of stray animals, confinement of certain animals, disposition of impoundment animals and for assisting in the administration of rabies vaccination programs.

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

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

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

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

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

**SEC. 7-1-8 ANIMALS RESTRICTED ON PUBLIC GROUNDS AND CEMETERIES.**

No dog or cat shall be permitted in any public playground, school grounds, public park or swimming area within the City unless such dog or cat is entered in a contest or obedience class approved by the Common Council. Dogs and cats are prohibited from being in cemeteries. Every dog specially trained to lead blind persons shall be exempt from this Section.

**SEC. 7-1-9 DUTY OF OWNER IN CASE OF DOG OR CAT BITE.**

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

**SEC. 7-1-10 INJURY TO PROPERTY BY ANIMALS.**

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

**SEC. 7-1-11 BARKING DOGS OR CRYING CAT.**

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

**SEC. 7-1-12 PROHIBITED AND PROTECTED ANIMALS, FOWL, REPTILES AND INSECTS.**

(a) **Protected Animals.**

(1) Possession and Sale of Protected Animals. It shall be unlawful for any person, firm or corporation to possess with intent to sell or offer for sale, or buy or attempt to buy, within the City any of the following animals, alive or dead, or any part or product thereof: all wild cats of the family Felidae, polar bear (*Ursus maritimus*), red wolf (*Canis niger*), vicuna (*Vicugna vicugna*), or alligator, caiman or crocodile of the order of Crocodylia, gray or timber wolf (*Canis lupus*), sea otter (*Enhydra lutris*), Pacific ridley turtle (*Lepidochelys olivacea*), Atlantic green turtle (*Chelonia mydas*), Mexican ridley turtle (*Lepidochelys kempi*).

(2) Compliance with Federal Regulations. It shall be unlawful for any person, firm or corporation to buy, sell or offer for sale a native or foreign species or subspecies of mammal, bird, amphibian or reptile, or the dead body or parts thereof, which appears on the endangered species list designated by the United States Secretary of the Interior and published in the Code of Federal Regulations pursuant to the Endangered Species Act of 1969 (Public Law 135, 91st Congress).

(3) Regulating the Importation of Certain Birds. No person, firm or corporation shall import or cause to be imported into this City any part of the plumage, skin or dead body of any species of hawk, owl or eagle. This paragraph shall not be construed to forbid or restrict the importation or use of the plumage, skin, body or any part thereof legally collected for use by the American Indians for ceremonial purposes or in the preservation of their tribal customs and heritage.

(b) **Exceptions.** The provisions of Subsection (a) above shall not be deemed to prevent the lawful importation, possession, purchase or sale of any species by any public agency, institute of higher learning, persons holding federal permits, or by a person holding a Scientific Collectors Permit issued by the Secretary of the Department of Natural Resources of the state, or to any person or organization licensed to present a circus.

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

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

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

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

#### **SEC. 7-1-13 CRUELTY TO ANIMALS AND BIRDS PROHIBITED.**

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

#### **SEC. 7-1-14 LIMITATION ON NUMBER OF CATS AND DOGS.**

- (a) **Purpose.** The keeping of a large number of cats and/or dogs within the City of Plymouth for a considerable period of time detracts from and, in many instances, is detrimental to, healthful and comfortable life in such areas. The keeping of a large number of cats and/or dogs is, therefore, declared a public nuisance.
- (b) **Definitions.**

(1) Residential Lot. A residential lot means a parcel of land zoned as residential, occupied or to be occupied by a dwelling, platted or unplatted, and under common ownership. For the purpose of this Section, any vacant parcel or parcels adjoining a dwelling and under the same ownership shall constitute one (1) lot.

(c) **Number Limited.** No family shall own, harbor or keep in its possession more than five (5) cats and three (3) dogs on any residential lot without the prior approval of the Common Council except that a litter of kittens or puppies, or a portion of a litter, may be kept for not more than twelve (12) weeks from birth. If more than one (1) family resides on a residential lot, then only a total of five (5) cats or three (3) dogs shall be allowed on the residential lot unless the prior approval is obtained from the Common Council. For the purposes of this Section, the term "family" shall be defined as one (1) or more persons.

#### **SEC. 7-1-15 ANIMAL FECES.**

It shall be unlawful for any person to cause or permit any animal, specifically including, but not limited to, dogs, horses, and cats, to be on property, public or private, not owned or possessed by such person unless such person has in his immediate possession an appropriate device for scooping excrement and an appropriate depository for the transmission of excrement to a receptacle located upon property owned or possessed by such person. Any person causing or permitting a dog, horse, or cat to be on property not owned or possessed by such person shall immediately remove all excrement of such dog, horse, or cat to a receptacle located upon property owned or possessed by such person. No person shall permit their dog or other animal to excrete feces upon public rights-of-way or in any park in the City. This Section shall not apply to a person who individually or physically handicapped.

#### **SEC. 7-1-16 TRAPPING OF ANIMALS.**

(a) In the interest of public health and safety, it shall be unlawful for any person, in or on City-owned land within the City of Plymouth to set, place or tend any trap for the purpose of trapping, killing, catching, wounding, worrying or molesting any animal, except by use of live box-type traps only. Live box-type traps shall be defined as those traps which capture and hold an animal in an alive and unharmed condition.

(b) This Section shall prohibit the use of all traps other than live traps as described above, including, but not limited to, traps commonly known as leg traps, pan-type traps or other traps designed to kill, wound or close upon a portion of the body of an animal.

(c) All such traps set, placed or tended, shall comply with Chapter 29 of the Wisconsin Statutes as they relate to trapping.

(d) This Section shall not apply to trapping on private property.

(e) Nothing in this Section shall prohibit or hinder the City of Plymouth or its employees or agents from performing their official duties.

#### **SEC. 7-1-17 PENALTIES.**



(a) Any person violating Sections 7-1-14 through 7-1-16 shall be subject to a forfeiture of not less than Fifty Dollars (\$50.00) and not more than Two Hundred Dollars (\$200.00). This Section shall also permit the City Attorney to apply to the court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating any aspect of this Ordinance.

(b) (1) Anyone who violates Sections 7-1-1, 7-1-2, 7-1-3, 7-1-4 and 7-1-5 of this Code of Ordinances or Chapter 174, Wis. Stats., shall be subject to a forfeiture of not less than Twenty-five Dollars (\$25.00) and not more than Two Hundred Dollars (\$200.00) for the first offense and not less than One Hundred Dollars (\$100.00) and not more than Four Hundred Dollars (\$400.00) for any subsequent offenses.

(2) An owner who refuses to comply with an order issued under Section 7-1-5 to deliver an animal to an officer, isolation facility or veterinarian or who does not comply with the conditions of an order that an animal be quarantined shall be fined not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) or imprisoned not more than sixty (60) days or both.

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

#### **SEC. 7-1-18 HUMANE OFFICER.**

(a) **Appointment; Authority.** Pursuant to Section 173.03 of the Wisconsin Statutes, the Common Council for the City of Plymouth may, from time to time, appoint one (1) or more Humane Officers. Humane Officers shall have the authority specified in Ch. 173 and shall be under the direction of the Chief of Police or designee thereof.

(b) **Abatement Orders.**

(1) Issuance of order. After investigation, if a humane officer or law enforcement officer has reasonable grounds to believe that a violation of a statute or ordinance is occurring and that the violation is causing or has the potential to cause injury to an animal, the humane officer or law enforcement officer may issue and serve an order of abatement pursuant to Section 173.11 of the Wisconsin Statutes.

(2) Hearing. Any person named in an order issued under sub. (a) may, within the ten (10) day period following service of the order, request a hearing on the order. The Municipal Judge shall conduct the hearing pursuant to the provisions of Section 173.11 of the Wisconsin Statutes.

(3) Appeal. Appeal from the decision of the Municipal Judge or other official shall be as provided in Section 173.11 of the Wisconsin Statutes.

(c) **Police Dogs.** No person shall knowingly resist, obstruct or interfere with any police dog while the dog is on duty in pursuit of its police duties. Any police dog shall be exempt from the provisions of the animal control ordinance and other City ordinances including quarantine periods after a bite while on duty.

**SEC. 7-1-19 KEEPING OF CHICKENS LICENSES.<sup>3</sup>**

(a) **License Required.** Every person keeping chickens within the City shall first obtain a license through the Building Inspector's office, which shall be valid from January 1 through December 31 of the year in which it is granted, and which may be renewed annually. The applicant shall complete and file the application for a license or license renewal with the City Building Inspector along with the license fee as established, and which may be changed from time to time, by resolution of the Common Council. Any material misstatement or omission on the application shall be grounds for denial, suspension, or revocation of the license. Any primary or secondary school open to public enrollment shall be exempt from the requirements of Sec. 13-1-144 and Sec. 7-1-19 and may keep chickens for educational purposes.

(b) **Consent of Neighboring Properties.** No initial license shall be issued to a person, by the Building Inspector, and no chickens shall be allowed to be kept unless the owners of all residentially zoned adjacent properties consent in writing to the license. For purposes of this license, adjacent property means all parcels of property that the applicant's property comes into contact with at one or more points, except those separated from the applicant's property by a public street. Renewal applications for a license shall not require the consent of neighboring properties.

(c) **Issuance of License.** The Building Inspector shall issue a license if the applicant has demonstrated compliance with the criteria and standards established by Section 13-1-144 of the Zoning Code, provided that the owner of all residentially zoned adjacent properties at time of the initial application consent in writing to the initial license. The applicant shall be responsible for completing the necessary consent forms and applications as approved by the Building Inspector. Failure to complete the approved forms may result in denial of the license. Proof of registration with the State of Wisconsin (Wis. Stat. § 95.51) is also required at time of application.

(d) **Denial, Suspension or Revocation of License.**

(1) The Building Inspector shall deny a license to any applicant who fails to meet the standards required by Section 13-1-144 of the Zoning Code.

(2) A license may be suspended or revoked by the Building Inspector where there is risk to public health or safety or for any violation of or failure to comply with any provisions of this section, Section 13-1-144 of the Code, or any other applicable ordinance or law.

(3) Any denial, suspension and revocation shall be in writing and mailed by first class mail to the licensee's last known address and shall include notification of the right to and procedure for appeal.

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<sup>3</sup> Created by Ordinance No. 10 of 2012. Enacted on June 26, 2012.

(e) **Jurisdiction of Humane Officer.** The City Humane Officer shall have the full power and authority under Section 7-1-18 of the City Code to ensure the proper care and treatment of chickens kept with the City.

(f) **Appeals.** A person appealing the denial, suspension or revocation by the Building Inspector may appeal the decision to the Common Council by filing a written appeal with the City Clerk within ten- (10-) days of the date of the Building Inspector's decision.

## **CHAPTER 2**

### **Fermented Malt Beverages and Intoxicating Liquor**

#### Article A

#### Fermented Malt Beverages and Intoxicating Liquor

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**ARTICLE A**  
**Fermented Malt Beverages and Intoxicating Liquor**

**SEC. 7-2-1 STATE STATUTES ADOPTED.**

The provisions of Chapter 125 of the Wisconsin Statutes, defining and regulating the sale of intoxicating liquor and fermented malt beverages, except provisions therein relating to penalties to be imposed, are hereby adopted by reference and made a part of this Chapter as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this Chapter. Any future amendment, revisions or modifications of the statutes incorporated herein are intended to be made a part of this Chapter in order to secure uniform statewide regulation of alcohol beverage control. The licensing period shall run from July 1 through June 30 of each year except as otherwise provided by state or local law.

State Law Reference: Chapter 125, Wis. Stats.

**SEC. 7-2-2 LICENSE REQUIRED.**

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

**SEC. 7-2-3 CLASSES OF LICENSES.**

(a) **Retail "Class A" Intoxicating Liquor License.** A retail "Class A" intoxicating liquor license, when issued by the City Clerk-Treasurer under the authority of the Common Council, shall permit its holder to sell, deal and traffic in intoxicating liquors only in original packages or containers and to be consumed off the premises so licensed. A "Class A" license also authorizes the licensee to provide, free of charge, to customers and visitors who have obtained the legal drinking age, taste samples of intoxicating liquor other than wine taste that are not in original packages or containers and that do not exceed 0.5 fluid ounces each, for consumption on the "Class A" premises. No licensee may provide more than one (1) taste sample per day to any one person. Taste samples may only be provided between the hours of 11:00 a.m. and 7:00 p.m. No "Class A" licensee may provide as taste samples under this paragraph intoxicating liquor other than wine that the "Class A" licensee did not purchase from a wholesaler. All other provisions of state and local law applicable to retail sales of fermented malt beverages by a "Class A" holder applies to the provision of samples.

(b) **Retail "Class A" Cider License.** Upon application the City shall issue a "Class A" Cider license to an applicant if the application limits retail sales of intoxicating liquor to cider and the applicant holds a "Class A" fermented malt beverage license. A Class "A" Cider licensee may provide, free of charge, to customers and visitors who have obtained the legal drinking age, cider taste samples that are not in original packages, containers or bottles, and that do not exceed three (3) fluid ounces each, for consumption on the premises. No licensee may provide more than two (2) taste samples per day to any one person. Taste samples may only be provided between the hours of 11:00 a.m. and 7:00 p.m. The "Class A" Cider Licensee may not provide any intoxicating liquor samples, other than cider, unless such licensee also holds a "Class A" intoxicating liquor license. All other provisions of state and local law applicable to retail sales of fermented malt beverages by a Class "A" holder applies to the provision of samples.

(c) **Retail "Class B" Intoxicating Liquor License.** A retail "Class B" intoxicating liquor license, when issued by the City Clerk-Treasurer under authority of the Common Council, shall permit its holder to sell, deal and traffic in intoxicating liquors to be consumed by the glass only on the premises so licensed and in the original package or container in multiples not to exceed four (4) liters at any one (1) time, to be consumed off the premises, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off the premises.

(d) **Reserve "Class B" Intoxicating Liquor License.** The retail "Class B" intoxicating liquor license in excess of the quota of such licenses as determined in accordance with Wisconsin Statutes sec. 125.51(4)(b)1g.

(e) **"Class B" Winery License.** A "Class B" winery license authorizes the sale of wine to be consumed by the glass or in open containers on the premises and also authorizes the sale of wine in the original package or container to be consumed off the premises, but does not authorize the sale of fermented malt beverages or any intoxicating liquor other than wine. A "Class B" winery license does not count against the City's quota. The City cannot issue a "Class B" winery license unless the winery has been issued a permit by the Wisconsin Department of Revenue under Wis. Stat. § 125.53.

(f) **Class "A" Fermented Malt Beverage Retailer's License.** A Class "A" retailer's fermented malt beverage license, when issued by the City Clerk-Treasurer under the authority of the Common Council, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only for consumption away from the premises where sold and in the original packages, containers or bottles. A Class "A" license also authorizes the licensee to provide, free of charge, to customers and visitors who have obtained the legal drinking age, fermented malt beverage taste samples that are not in original packages, containers or bottles, and that do not exceed three (3) fluid ounces each, for consumption on the Class "A" premises. No licensee may provide more than two (2) taste samples per day to any one person. Taste samples may only be provided between the hours of 11:00 a.m. and 7:00 p.m. All other provisions of state and local law applicable to retail sales of fermented malt beverages by a Class "A" holder applies to the provision of samples.

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

(1) License. A Class "B" fermented malt beverage retailer's license, when issued by the City Clerk-Treasurer under the authority of the Common Council, shall entitle the holder thereof to possess, sell or offer for sale, fermented malt beverages, either to be consumed upon the premises where sold or away from such premises. The holder may also sell beverages containing less than one-half (½) of a percentum of alcohol by volume, without obtaining a special license to sell such beverages.

(2) Application. Class "B" licenses may be issued to any person qualified under Sec. 125.04(5), Wis. Stats. Such licenses may not be issued to any person acting as agent for or in the employ of another except that this restriction does not apply to a hotel or restaurant which is not a part of or located on the premises of any mercantile establishment, or to a bona fide club, society or lodge that has been in existence for at least six (6) months before the date of application. A Class "B" license for a hotel, restaurant, club, society or lodge may be issued in the name of an officer who shall be personally responsible for compliance with this Chapter. Except as provided in Sec. 125.31, Wis. Stats., Class "B" licenses may not be issued to brewers or fermented malt beverages wholesalers.

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

(1) License. As provided in Sec. 125.26(l) and (6), Wis. Stats., temporary Class "B" fermented malt beverage licenses may be issued to bona fide clubs and chambers of commerce, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six (6) months before the date of application and to posts of veterans' organizations authorizing the sale of fermented malt beverages at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. A license issued to a county or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of fermented malt beverages from leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of fermented malt beverages from the stands while the fair is being held. Such license is valid for dates as approved by the Common Council.

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

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

(1) License. As provided in s. 125.51(10), notwithstanding s. 125.68 (3), temporary "Class B" licenses may be issued to bona fide clubs and chambers of commerce, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six (6) months before the date of application and to posts of veterans' organizations authorizing the sale of wine in an original package, container or bottle or by the glass if the wine is dispensed directly from an original package, container or bottle at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. A license issued to a county or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of wine from leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of wine from the stands while the fair is being held. If a county or district fair leases any stand to a winery holding a permit under Wis. Stat. § 125.53, in addition to making retail sales of wine from the leased stand, the winery may provide taste samples anywhere on the fairgrounds of wine manufactured by the winery. If a license is issued under this section to a fair association solely for the purposes of conducting on the licensed premises wine judging or tasting events involving servings of wine no greater than one fluid ounce each, Wis. Stat. § 125.68(2) does not apply to these licensed premises. Except as provided in subsection (3), below, not more than two (2) licenses may be issued under this subsection to any club, chamber of commerce, county or local fair association, agricultural association, church, lodge, society or veterans post in any twelve (12) month period. Each event for which multiple licenses are issued as provided in subsection (3) shall count as one license towards this two (2) license limit.

(2) Application. Application for such license shall be signed by the president or corresponding officer of the society or association making such application and shall be filed with the City Clerk-Treasurer together with the appropriate license fee for each day for which the license is sought. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a forfeiture of Two Hundred Dollars (\$200.00) and will be ineligible to apply for a temporary "Class B" wine license for one (1) year. The license shall specify the hours and dates of license validity and indicate whether the licensee is seeking to permit underage persons to be on the licensed premises for the purpose of acting as designated drivers. The application shall be filed a minimum of fifteen (15) days prior to the meeting of the Common Council at which the application will be considered for events of more than three (3) consecutive days. If the application is for a license to be used in a City park, the applicant shall specify the main point of sale facility.

(3) Multiple Licenses for Single Event. The City may issue up to 20 licenses under subsection (a) to the same licensee if all of the following apply:

- a. Each license is issued for the same date and times and the licensee is the sponsor of an event held at multiple locations within the municipality on this date and at these times. Such event may not exceed one (1) day.

- b. An admission fee is charged for participation in the event and no additional fee is charged for service of alcohol at the event.
- c. Within the immediately preceding 12-month period, the City has issued licenses under this subsection for fewer than two (2) events.

(j) **Retail "Class C" Wine License.**

(1) **License.** A "Class C" license authorizes the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold. A "Class C" license may be issued to a person qualified under s. 125.04 (5) for a restaurant in which the sale of alcohol beverages accounts for less than fifty percent (50%) of gross receipts and which does not have a barroom or for a restaurant in which the sale of alcohol beverages accounts for less than fifty percent (50%) of gross receipts and which has a barroom in which wine is the only intoxicating liquor sold. A "Class C" license may not be issued to a foreign corporation, a foreign limited liability company or a person acting as agent for or in the employ of another.

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

(k) **Provisional Retail License.** A Provisional Retail License for a Class "A", Class "B", "Class A", "Class B", or "Class C" establishment may be issued by the City Clerk/Treasurer to a person who has applied for such a license. The provisional license shall authorize only the type of activities authorized by the retail license for which the applicant has applied. Provisional licenses shall expire sixty (60) days after issuance of when the Class "A", Class "B", "Class A", "Class B", or "Class C" license is issued, whichever is sooner.

Cross Reference: Section 7-2-17.

**SEC. 7-2-4 LICENSE FEES.**

There shall be the following classes of licenses which, when issued by the City Clerk-Treasurer under the authority of the Common Council after payment of the license fee and publication costs hereinafter specified shall permit the holder to sell, deal or traffic in intoxicating liquors or fermented malt beverages as provided in Section 7-2-3 of this Code of Ordinances and Chapter 125, Wis. Stats.:

(a) **Class "A" Fermented Malt Beverages Retailer's License.** The annual fee for this license shall be Two Hundred Dollars (\$200.00). The fee for a license for less than twelve (12) months shall be prorated according to the number of months or fraction thereof for which the license is issued.

(b) **Class "B" Fermented Malt Beverage License.** The annual fee for this license shall be One Hundred Dollars (\$100.00). This license may be issued at any time for six (6) months in any calendar year, for which fifty percent (50%) of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in



which issued. The fee for a license for less than twelve (12) months shall be prorated according to the number of months or fraction thereof for which the license is issued.

(c) **Temporary Class "B" Fermented Malt Beverage License.** The fee for this license shall be Ten Dollars (\$10.00) per event.

(d) **Temporary "Class B" Wine License.** The fee for this license shall be Ten Dollars (\$10.00) per event. However, there shall be no fee if the Temporary Wine License is obtained along with a Temporary Fermented Malt Beverage License.

(e) **"Class A" Intoxicating Liquor Retailer's License.** The annual fee for this license shall be Four Hundred Dollars (\$400.00).

(f) **"Class B" Intoxicating Liquor Retailer's License.** The annual fee for this license shall be Four Hundred Dollars (\$400.00). This license may be issued at any time for six (6) months in any calendar year, for which fifty percent (50%) of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued.

(g) **Reserve "Class B" Intoxicating Liquor Retailer's License.** In addition to the annual fee as provided in sec. (f) above, a one-time initial fee of Ten Thousand Dollars (\$10,000.00) is hereby established for issuance of this license in accordance with the provisions of Wisconsin Statutes sec. 125.51(3)(e)2.

(h) **Retail "Class C" Wine License.** The annual fee for a "Class C" license shall be One Hundred Dollars (\$100.00).

(i) **Provisional Retail License.** The fee for the provisional retail license shall be Fifteen Dollars (\$15.00).

#### **SEC. 7-2-5 APPLICATION FOR LICENSE.**

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

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

(c) **Publication.** The City Clerk-Treasurer shall publish each application for a retail license, except for a temporary "Class B" wine license or Class "B" fermented malt beverage license. The application shall be published once in the official City newspaper, and the costs of publication shall be paid by the applicant at the time the application is filed, as determined under Sec. 985.08, Wis. Stats.

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

(e) **License Quotas.** "Class B" retail intoxicating liquor licenses issued by the Common Council shall be limited in number to the quota prescribed by state law. "Class A" retail intoxicating liquor licenses issued by the Common Council shall be limited to 1 license per each 1,000 in population.

#### **SEC. 7-2-6 QUALIFICATIONS OF APPLICANTS AND PREMISES.**

(a) **Residence Requirements.** A retail Class "A" or Class "B" fermented malt beverage or "Class A" or "Class B" intoxicating liquor license shall be granted only to persons or entities meeting the requirements of Wis. Stat. § 125.04(5).

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

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

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

(e) **Corporate Restrictions.**

(1) No license or permit may be issued to any corporation unless the corporation meets the qualifications under Sec. 125.04(5)(c), Wis. Stats., unless the agent of the corporation appointed under Sec. 125.04(6) and the officers and directors of the corporation meet the qualifications of Sec. 125.04 (6). The requirement that the corporation meet the qualifications under Sec. 125.04(5)(a)1 and (b) does not apply if the corporation has terminated its relationship with all of the individuals whose actions directly contributed to the conviction.

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

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

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

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

(h) **Retail Class "A" Intoxicating Liquor or Combination Retail Class "A" Licensed Multi-Purpose Stores.** Any retail multi-purpose store, including but not limited to grocery stores and convenience stores, which shall be granted a Class "A" Intoxicating Liquor or Combination Class "A" Intoxicating Liquor/Beer License shall conform to the following requirements as a condition of such license:

(1) All Class "A" alcohol products shall be maintained for sale and displayed in a room separate from the general retail facility.

(2) The sale area maintained for the display and sale of alcohol beverage products shall have a point of sale separate from that of the general retail establishment for non-alcohol beverage items sold by such retail store.

(3) The attendant at the separate point of sale shall be not less than eighteen (18) years of age, and shall be on duty thereat at all times when such sale area shall be open for the sale of alcohol beverage items.

(4) The sale area maintained for the display and sale of alcohol beverage items shall be closed to all sales during the period commencing at 9 p.m. and until 8 a.m., during which said closed time such room shall be locked in a manner sufficient to prevent entry by customers from outside of the store or entry from the retail store.

(5) Entrance into the alcohol sales area shall be restricted to persons who have attained the age of twenty-one (21) years unless accompanied by a parent or guardian who shall have attained such age.

#### **SEC. 7-2-7 INVESTIGATIONS.**

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

**SEC. 7-2-8 GENERAL LICENSING REQUIREMENTS.**

(a) No person (including a corporation) or premises who or which shall have any outstanding indebtedness to the City due and unpaid for personal property taxes, room taxes, special or other assessments, any utility payment owed to Plymouth Utilities or revolving loan fund payment which is four (4) or more months delinquent, or any forfeiture, shall be issued any alcohol beverage license under this Chapter. Notice of intent not to renew an existing license shall be in accordance with Sec. 125.12(3), Wis. Stats.

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

(c) Qualification for licenses and permits. Licenses and permits related to alcohol beverages issues to natural persons may be issued only to persons who fulfill all the following requirements under Wis. Stat. § 125.04(5):

- (1) Do not have an arrest or conviction record of the applicant, subject to the limitations imposed by Secs. 111.321, 111.322, 111.335, and 125.12(1)(b) Wis. Stats.;
- (2) Have been residents of Wisconsin for at least ninety (90) days prior to the application;
- (3) Have attained the legal drinking age;
- (4) Have submitted proof under Wis. Stat. § 77.61(11) that they are in good standing for sales tax purposes.
- (5) Have successfully completed within two (2) years prior to the date of application a responsible beverage server training course, unless otherwise exempt.

(d) No license or permit may be issued to any person who has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender, subject to Secs. 111.321, 111.322, 111.335 and 125.12, Wis. Stats For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be a conviction or pending charge of at least two (2) offenses which are substantially related to the licensed activity within the five (5), years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the Common Council, the Common Council reserves the right to consider the severity, and facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the Council, at its discretion, may, based upon an arrest or conviction record of two (2) or more offenses which are substantially related to the licensed activity within the five (5) years immediately preceding, act to suspend such license for a period of one (1) year or more.

**SEC. 7-2-9 GRANTING OR DENIAL OF LICENSE.**

(a) Opportunity shall be given by the governing body to any person to be heard for or against the granting of any license.

(b) The Common Council has broad discretion in issuing alcohol licenses and shall consider the public health, safety and general welfare of the Community in such determinations. Upon the approval of the applicant by the Common Council, the City Clerk-Treasurer shall issue to the applicant a license, upon payment by the applicant of the license fee to the City. The full license fee shall be charged for the whole or fraction of any year.

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

(d) No application for any license which shall have been denied by the Common Council for any reason shall again be considered by the Common Council for a period of three (3) months from the date of such denial.

(e) The costs of publication and background checks are not refundable upon license denial.

**SEC. 7-2-10 TRANSFER AND LAPSE OF LICENSE.**

(a) In accordance with the provisions of Sec. 125.04(12), Wis. Stats., a license shall be transferable from one premises to another if such transfer is first approved by the Common Council. An application for transfer shall be made on a form furnished by the City Clerk-Treasurer. Proceedings for such transfer shall be had in the same form and manner as the original application. The fee for such transfer is Ten Dollars (\$10.00). Whenever a license is transferred, the City Clerk-Treasurer shall forthwith notify the Wisconsin Department of Revenue of such transfer. In the event of the sale of a business or business premises of the licensee, the purchaser of such business or business premises must apply to the City for re-issuance of said license and the City, as the licensing authority, shall in no way be bound to reissue said license to said subsequent purchaser.

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

special meeting of the Common Council until the successor agent or another qualified agent is appointed and approved by the City.

**SEC. 7-2-11 NUMBERING OF LICENSE.**

All licenses shall be numbered in the order in which they are issued and shall state clearly the specific premises for which granted, the date of issuance, the fee paid and the name of the licensee. The City Clerk-Treasurer shall affix to the license his or her sign and seal.

**SEC. 7-2-12 POSTING LICENSES; DEFACEMENT.**

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

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

**SEC. 7-2-13 CONDITIONS OF LICENSE.**

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

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

(b) **Employment of Underage Persons.** Underage persons may be employed or volunteer on licensed premises except that employees or volunteers aged 14 to 17 are not permitted to sell or dispense alcoholic beverages.

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

(d) **Licensed Operator on Premises.** There shall be upon licensed premises, at all times, the licensee, the permittee, the agent of a corporation or limited liability company named in the license, or members of the licensee's or permittee's immediate family who have attained the legal drinking age, and/or some person who shall have an operator's license and who shall be responsible for the acts of all persons serving as waiters, or in any other manner, any intoxicating liquor or fermented malt beverages to customers. No person other than the licensee shall serve fermented malt beverages in any license premises unless he possesses an operator's license, or is at least 18 years of age and is

under the immediate supervision of the licensee, permittee, or a person holding an operator's license who is on the premises at the time of service.

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

(f) **Restrictions near Schools and Churches.** No retail license, except a temporary license, or "Class A" cider license, shall be issued for premises, the main entrance of which is less than three hundred (300) feet from the main entrance of any established public school, parochial school, hospital or church. Such distance shall be measured by the shortest route along the highway from the closest point of the maintenance entrance of such school, church or hospital to the main entrance to such premises. This Subsection shall not apply to premises licensed as such on June 30, 1947, nor shall it apply to any premises licensed as such prior to the occupation of real property within three hundred (300) feet thereof by any school building, hospital building or church building nor a restaurant in which the sale of alcohol beverages accounts for less than fifty percent (50%) of their gross receipts that is located within 300 feet of a church or school. This provision is not subject to waiver by the Common Council.

Wis. Stat. §125.68(3)

(g) **Gambling Prohibited.** Except as authorized by state law, no gambling or game of chance of any sort shall be permitted in any form upon any premises licensed under this Chapter or the laws of the State of Wisconsin.

(h) **Licensee or Permittee Responsible for Acts of Help.** A violation of this Chapter or of Sec. 11-4-2 (a) or (c), or of Sec. 11-4-3 (a) by a duly authorized agent or employee of a licensee or permittee under Sec. 7-2-4 shall constitute a violation by said licensee or permittee. Whenever any licensee or permittee under this Chapter shall violate any portion of this Chapter or of Sec. 11-4-2 (a) or (c), or of Sec. 11-4-3 (a) proceedings for the suspension or revocation of the license or permit of the holder thereof may be instituted in the manner prescribed in Sec. 7-2-16.

(i) **Improper Exhibitions.**

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

a. Exposes his or her genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or

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

c. Exposes any portion of the female breast at or below the areola thereof; or

d. Engages in or simulates sexual intercourse and/or any sexual contact, including the touching of any portion of the female breast or the male and/or female genitals.

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

(3) **Penalties.** Any person, partnership, or corporation who violates any of the provisions of this Ordinance shall be subject to a forfeit of not less than Two Hundred Dollars (\$200.00), and not more than Five Hundred Dollars (\$500.00) 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 Ordinance constitutes sufficient grounds for suspending, revoking or non-renewing an alcohol beverage license under Sec. 125.12, Wis. Stats.

(j) **Maximum Patron Capacity.** The maximum number of patrons which shall be permitted to be present in a licensed establishment shall be established by the Fire Chief or Building Inspector and shall be limited to one person for each seven (7) square feet of floor space. Such maximum shall be indicated by a sign placed in a conspicuous place at the main entrance and shall have the following wording: "Limit (Number) of Persons." The lettering shall be white on a dark background and not less than 1½ inches in height and the number shall be not less than 3 inches in height. Floor space shall be determined exclusive of rest rooms, kitchen and food preparation areas, storage areas, behind-the-bar areas, stage and entertainment areas, and any other areas not regularly frequented by patrons. Each area of a facility operated for a specific purpose (i.e. Banquet hall, Dance hall, Convention center, and similar distinct and separated use) shall be separately considered and signed. Outside areas shall be exempt.

Any person who shall permit a violation of this Section shall, in addition to any other penalty provided by this Chapter, forfeit not less than Two Hundred Dollars (\$200.00) for each such violation, and in addition thereto, should the established maximum capacity be determined to have been exceeded by twenty percent (20%) or more, the premises shall be directed to be immediately evacuated and closed for a period of twenty-four (24) hours by the enforcing municipal official.

(k) **Exits Clearly Designated and Operable.** All exits shall be clearly designated and marked so as to be visible from all points upon the premises, and in case an exit marking is not clearly visible, additional exit route designation markers shall be placed so as to clearly identify all available means of exit, including emergency exits. All exits shall be unlocked and easily operable from the inside during all times when the premises is occupied by patrons. Doors shall be outward opening. All exit stairway areas and emergency exit ways shall be adequately lighted.



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

#### **SEC. 7-2-14 CLOSING HOURS.**

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

(a) **Class B Licenses.**

- (1) No premises for which a retail "Class B" liquor or Class "B" fermented malt beverage license has been issued shall be permitted to remain open for the sale of liquor or fermented malt beverages or for any other purpose between the hours of 2:00 a.m. and 6:00 a.m., Monday through Friday, and 2:30 a.m. and 6:00 a.m., Saturday and Sunday. There shall be no closing hours on January 1st.
- (2) Hotels and restaurants, the principal business of which is the furnishing of food or lodging to patrons, bowling alleys, indoor horseshoe pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business but shall not sell liquor or malt beverages during the closing hours of Subsection (a)(1) above.

(b) **Carryout Hours.** Between 9:00 p.m. and 8:00 a.m., no person may sell, remove, carry out or permit to be removed or carried out from any premises having a "Class A" or Class "A" license, fermented malt beverages or intoxicating liquor in original unopened packages, containers or bottles or for consumption away from the premises. Between 12 midnight and 6:00 a.m., no person may sell fermented malt beverages on "Class B" licensed premises in an original unopened package, container, or bottle or for consumption away from the premises.

#### **SEC. 7-2-15 RESTRICTIONS ON TEMPORARY FERMENTED MALT BEVERAGE OR WINE LICENSES.**

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

(a) **Compliance with Eligibility Standards.** The organization shall meet the eligibility requirements of a bona fide club, association, lodge or society as set forth in Sec. 125.26(6), Wis. Stats., and shall fully comply with the requirements of this Section and Section 11-4-1.

(b) **Posting of Signs and Licenses.** All organizations issued a temporary license shall post in a conspicuous location at the main point of sale and at all remote points, signs stating that no fermented malt beverage shall be served to any underage person.

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

(d) **Underage Persons Prohibited.** No person under the age of eighteen, unless properly licensed as an operator, shall be allowed to assist in the sale of fermented malt beverages or wine at any point of sale. No underage person as defined by the Wisconsin Statutes shall be allowed to loiter or linger in the area of any point of sale, unless working as a licensed operator or accompanied by a parent or guardian, unless the Common Council authorizes the licensee to allow underage persons on the premises.

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

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

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

(h) **Beer and Liquor Not To Be Carried In.** No person shall bring fermented malt beverages or intoxicating liquor in any form of a container with him, or in his automobile, to any public function within the City of Plymouth for his own consumption, or consumption of others; except only under permission of the Common Council granted for such function. The term public function shall be construed to mean any function that is open to the general public for an admission charge or without admission charge upon any premises in the City.

Cross Reference: Section 11-4-1.

## **SEC. 7-2-16 REVOCATION AND SUSPENSION OF LICENSES; NON-RENEWAL.**

(a) **Procedure.** Whenever the holder of any license under this Chapter violates any portion of this Chapter or Title 11, Chapter 4, of this Code of Ordinances, proceedings for the revocation of such license may be instituted in the manner and under the procedure established by this Section.

(b) **Non-Operational Business Premises.** Any licensee holding a license to sell alcohol beverages who fails to operate such business shall forfeit any right or preference he may have to the holding of or renewal of such license. Failure to operate shall be sufficient grounds for revocation of any alcohol beverage license. The losing of the licensed premises for at least six (6) months shall be evidence of the failure to operate, unless extended by the Common Council. All persons issued a license to sell alcohol beverages in the City for which a quota exists limiting the number of such licenses that may be issued by the City shall cause such business described in such license to be operated on the premises described in such license for a minimum of four (4) hours per day for at least one hundred fifty (150) days during the term of such license, unless such license is issued for a term of less than one hundred eighty (180) days, in which event this Subsection shall not apply. The City may require evidence of operation, including sales documentation.

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

(d) **Point System.**

(1) In order to form a basis for suspension, revocation, non-issuance, or non-renewal of an alcohol beverage license, the following demerit system is hereby established to identify habitually troublesome license holders who have been convicted of repeatedly having violated State statutes or City ordinances, or the similar ordinances of any other Wisconsin jurisdiction issuing licenses pursuant to Ch. 125, Wis. Stats., for the purpose of suspension, revocation, non-issuance, or non-renewal of an alcohol beverage license by the Common Council, pursuant to Wis. Stats. 125.12 (2)(ag)1, and appropriate action thereby. Demerit points shall be assessed against the license record based upon the date of occurrence of any license applicant or license issued by the City of Plymouth irrespective of the location of such violation according to the following schedule:

	<b>Violation</b>	<b>PMC Reference</b>	<b>Point Value</b>
a.	Sale of alcohol beverage without license	7-2-2	100
b.	Sale of alcohol beverage to underage person (First offense within 1 year period cannot be counted. If second offense with 1 year, both first and second are counted per Wis. Stat. § 125.12(1)(b).)	11-4-2(a)	50
c.	Sale of alcohol beverage to intoxicated person	11-4-2(c)	50
d.	After hours consumption	7-2-14(a)(1)	50
e.	Open after hours	7-2-14(a)(1)	50
f.	Refusal to allow police to search premises or refusal to cooperate with lawful police investigation	7-2-13(a)	50
g.	Licensee, agent or operator to be on premises at all times	7-2-13(d)	25
h.	Underage person on premises without parent	11-4-3	25
i.	On premises after closing hours	7-2-14(a)(1)	25
j.	Carryout sale after designated hours	7-2-14(b)	25
k.	Permit person to leave licensed premises with open alcohol beverage	11-4-1(3)	25

l.	Fail to post license	7-2-12	25
m.	Employment of underage person	7-2-13(b)	25
n.	Sanitary regulation violation	7-2-13(e)	25
o.	Improper Exhibitions	7-2-13(i);	25
p.	Any violation of patron capacity restrictions (Any failure to immediately evacuate and close for a 24 hour period if directed by an enforcing municipal official shall result in an addition 25 point assessment under this Section.)	7-2-13(j)	50
q.	Disorderly conduct	7-2-13(c)	25

(2) Any license applicant or license holder who shall have accumulated, or who shall accumulate demerit points, as calculated from the date of violation and based upon court conviction, in accordance with the following schedule may have any license suspended or revoked by the Common Council in accordance with Sec. 125.12, Wis. Stats.

<b>Demerit points accumulated in previous twelve (12) month period by applicant/license holder</b>	<b>Period of Suspension or Revocation</b>
75 points	Warning or suspension not to exceed 2 days
100 points	Not to exceed 5 days
125 points	Not to exceed 10 days
150 points	Not to exceed 15 days
Over 150 points	Revocation

(e) **Use by Another Prohibited.**

(1) No person may allow another to use his or her retail license or permit to sell alcohol beverages.

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

State Law Reference: 125.68 and 125.32, Wis. Stats.

(f) **Annual Review / Non-Renewal of Licenses.**

(1) On or before April 15th of each year the Chief of Police shall file a report with the Common Council concerning each establishment then holding a license. Such report shall contain, at minimum, the following information for the previous twelve (12) month period:

a. A listing of all police calls responding to the establishment showing date, circumstance, and disposition, with specific notation as to citations issued and court dispositions.

b. A listing of all incidents of disorderly events occurring within the immediate vicinity of a licensed establishment, with indication as to involvement of establishment patrons.

- c. A listing of all demerit points applicable pursuant to subsection (d).
- d. A copy of all written citizen complaints received relating to an establishment or its patrons if identified and signed by the author.
- e. A copy of any correspondence to or from the licensee.

(2) The Common Council may, but shall not be obligated, hold a public hearing for the purpose of soliciting community response with respect to the renewal of then outstanding licenses prior to action being taken. Comment may be submitted in writing if identified and signed by the author. A class one notice shall be published for any public hearing.

(3) The Common Council shall, after considering all information provided pursuant to subsections (1) and (2), together with any other information deemed relevant, indicate its intention to renew or not to renew an outstanding license. Non-renewal shall be only for the causes set forth in Wisconsin Statutes § 125.12(2)(ag), and shall not be capricious or arbitrary. Should an intention not to renew be made, written notice thereof shall be given to the license holder in accordance with the provisions of Wisconsin Statutes §125.12(3), which written notice shall state the specific reasons for the intended action and give the license holder an opportunity for hearing with respect thereto. The Clerk shall include the specific reasons for denial in the minutes of the meeting at which such determination is made. Any hearing shall proceed in accordance with the provisions of Wisconsin Statutes §125.12(2)(b). In the event of a requested judicial review, the subject license shall not be re-issued but shall be held in abeyance pending determination by the Court.

**SEC. 7-2-17 NON-ALCOHOL EVENTS FOR UNDERAGE PERSONS ON LICENSED PREMISES.**

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

(a) The licensee or agent of a corporate licensee shall notify the Police Department at least forty-eight (48) hours in advance of the date of any event at which underage persons will be present on the licensed premises. Each such non-alcohol event notice shall specify the date(s) on which the event is to occur and the time(s) of commencement and termination. All notices shall be filed with the Police Department during normal working hours (8:00 a.m. to 5:00 p.m., Monday through Friday) and shall be given on forms prescribed by the Department. After a non-alcohol event notice has been given, the licensee may cancel an event(s) only by giving like notice to the Department in accordance with the provisions of this Subsection. Regardless of the date given, all notices shall expire and be deemed canceled no later than the date of expiration or revocation of the applicable retail Class "B" or "Class B" license.

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

(c) Once a non-alcohol event has commenced, no alcohol beverages may be consumed, sold or given away on or carried into the licensed premises until one (1) hour after the end of the non-alcohol event provided no underage person remains on the licensed premises, except as allowed by state or local law.

(d) During the period of any non-alcohol event all alcohol beverages shall be stored in a locked portion of the licensed premises in a secure place out of the sight and physical reach of any patron present unless the licensee or a licensed bartender in the employ of the licensee is on the premises and has visual control or immediate supervision of the beverage serving and alcohol storage areas.

**SEC. 7-2-18 UNDERAGE PERSONS ON PREMISES IN SEPARATE ROOM.**

The presence of underage persons on a licensed premises as provided under Sec. 125.07(3)(a)8, Wis. Stats., shall be subject to the following:

(a) An underage person may enter or remain in a room on a Class “B” or “Class B” licensed premises, separate from any room where alcohol beverages are sold or served, if no alcohol beverages are furnished or consumed by any person in the room where the underage person is present.

(b) The licensee or agent of a corporate licensee shall notify the Police Department at least forty-eight (48) hours in advance of the date of any event at which underage persons will be present on the licensed premises, in a separate room from where alcohol beverages are sold or consumed by any person. Each such event notice shall specify the date(s) on which underage persons will be on the premises and the time(s) of the event’s commencement and termination. All notices shall be filed with the Police Department during normal working hours (8:00 a.m. to 5:00 p.m., Monday through Friday) and shall be given on forms prescribed by the Department. After notice has been given, the licensee may cancel an event(s) only by giving like notice to the Department in accordance with the provisions of this Subsection.

(c) No underage persons shall be allowed on premises until the City of Plymouth Police Department issues a written authorization permitting underage persons to be present on the date specified in the authorization. Before issuing the authorization the Police Department shall make a determination that the presence of underage persons on the licensed premises will not endanger the health, welfare or safety of the underage person or that of other members of the community.

(d) The licensee shall obtain a separate authorization for each date on which underage persons will be present on the premises.

**SEC. 7-2-19 THROUGH SEC. 7-2-29 RESERVED FOR FUTURE USE.**

**ARTICLE B  
Operator's License**

**SEC. 7-2-30 OPERATOR'S (BARTENDER'S) LICENSE REQUIRED.**

(a) **Operator's Licenses.** Except as provided under Sec. 125.32(3)(b), Sec. 125.51(10), and Sec. 125.07(3)(a)10, Wis. Stats., no licensed premises may be open for

business or provide fermented samples of malt beverages, wine, or intoxicating liquor unless there is upon the premises the licensee or permittee, the agent named in the license or permit if the licensee or permittee is a corporation, or some person who has an operator's license and who is responsible for the acts of all persons serving any alcoholic beverages to customers. An operator's license issued in respect to a vessel under Sec. 125.27(2), Wis. Stats., is valid outside the municipality that issues it. For the purpose of this Section, any person holding a manager's license under Sec. 125.18, Wis. Stats., or any member of the licensee's or permittee's immediate family who has attained the age of eighteen (18), shall be considered the holder of an operator's license. No person, including a member of the licensee's or permittee's immediate family, other than the licensee, permittee or agent, may serve alcoholic beverages on licensed premises unless he or she has an operator's license or is at least eighteen (18) years of age and is under the immediate supervision of the licensee, permittee, agent or a person holding an operator's license, who is on the premises at the time of the service and in a position of immediate supervision.

#### **SEC. 7-2-31 PROCEDURE UPON APPLICATION.**

(a) The Common Council shall issue an operator's license to any applicant who is qualified under Sec. 125.04(5), Wis. Stats., which license shall be granted only upon application in writing on forms to be obtained from the City Clerk-Treasurer. Operator's licenses shall be operative only within the limits of the City.

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

#### **SEC. 7-2-32 DURATION.**

Licenses issued under the provisions of this Chapter shall be valid for a period of one (1) year and shall expire on the 30th day of June of each year.

#### **SEC. 7-2-33 OPERATOR'S LICENSE FEES.**

(a) **Fee.** The annual fee for an operator's license shall be Twenty-seven Dollars (\$27.00) for the term or part thereof. The fee for a provisional license shall be Fifteen Dollars (\$15.00)

(b) **Provisional License.** The City Clerk-Treasurer may issue provisional operator's licenses in accordance with Sec. 125.17(5), Wis. Stats. The City Clerk-Treasurer may, upon receiving an application for a provisional license, together with payment of the fee therefore, issue such a license to a person who, at the time of application for an operator's license under 7-2-31 and payment of the operator's license fee in 7-2-33(a), shall file a certified copy of a valid operator's license issued by another municipality, or

who is enrolled in a training course under Sec. 7-2-35. Such provisional license shall expire upon the earliest to occur of the following: 1) Expiration of the operator's license issued by the other municipality; 2) the issuance of an operator's license; or 3) Sixty (60) days. A provisional license may not be issued to any person who has been denied an operator's license by the Common Council or who has had his/her operator's license revoked or suspended within the preceding twelve (12) months. The City Clerk-Treasurer shall provide an appropriate application form to be completed in full by the applicant. The City Clerk-Treasurer may revoke the provisional license issued if it is discovered that the holder of the license made a false statement on the application if the operator's license is denied, or if the Clerk-Treasurer determines that the license issued by another municipality is not valid.

(c) **Temporary License.** The Common Council shall issue a temporary operator's license to operators meeting the qualifications set forth in Section 7-2-31 upon payment of a fee in the amount of Fifteen Dollars (\$15.00). A temporary operator's license may be issued only to operators employed by or donating their services to a nonprofit corporation. No person may hold more than two (2) temporary operator's licenses per year, running from July 1 to June 30. The license is valid for any period from one (1) to fourteen (14) days as determined by the Common Council.

State Law Reference: 125.17.

#### **SEC. 7-2-34 ISSUANCE OR DENIAL OF OPERATOR'S LICENSES.**

(a) After the Common Council approves the granting of an operator's license, the City Clerk-Treasurer shall issue the license. Such licenses shall be in the form of a photo identification card, issued and numbered in the order they are granted and shall show the applicant's name, date of issuance, expiration date of such license, and a photo of the licensee which shall be taken at the City Clerk-Treasurer's office.

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

(2) If, upon reconsideration, the Board again denies the application, the City Clerk-Treasurer shall notify the applicant in writing of the reasons therefore. An applicant who is denied any license upon reconsideration of the matter, may apply to Circuit Court pursuant to Sec. 125.12(2)(d), Wis. Stats., for review.

(c) (1) Consideration for the granting or denial of a license will be based on whether the applicant meets the qualifications set forth in Sec. 125.04(5), Wis. Stats.

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



(d) An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two (2) offenses which are substantially related to the licensed activity within the five (5) years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the Common Council, the Common Council reserves the right to consider the severity, and facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the Common Council, at its discretion, may, based upon an arrest or conviction record of two (2) or more offenses which are substantially related to the licensed activity within the five (5) years immediately preceding, act to suspend such license for a period of one (1) year or more. In the event the application is denied, Fifteen Dollars (\$15.00) shall be refunded.

#### **SEC. 7-2-35 TRAINING COURSE.**

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

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

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

(c) The Common Council may not require that applicants for operators' licenses undergo training in addition to that under Subsection (a), but may require applicants to purchase, at cost, materials that deal with relevant local subjects not covered in the course under Subsection (a).

#### **SEC. 7-2-36 DISPLAY OF LICENSE.**

Each operator's license issued under the provisions of this Chapter shall be either posted on the premises, worn as a badge, or be in the possession of the licensee whenever the licensee dispenses or sells alcoholic beverages.

#### **SEC. 7-2-37 REVOCATION OF OPERATOR'S LICENSE.**

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

**SEC. 7-2-38 THROUGH SEC. 7-2-39 RESERVED FOR FUTURE USE.**

**ARTICLE C  
Penalties**

**SEC. 7-2-40 PENALTIES.**

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

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

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

**CHAPTER 3**

Cigarette Licenses

7-3-1 Cigarette Licenses

**SEC. 7-3-1 CIGARETTE LICENSES.**

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

(b) **Application for license; Fee.** Every person, firm or corporation desiring a license under this Section shall file with the City Clerk-Treasurer a written application therefore, stating the name of the person and the place for which such license is desired. Each license shall be filed by the City Clerk-Treasurer and shall name the licensee and the place wherein he is authorized to conduct such business, and the same shall not be delivered until the applicant shall pay to the City Clerk-Treasurer a license fee of One Hundred Dollars (\$100.00).

(c) **Issuance and Term of License.** Licenses for the sale, exchange, barter, disposition of, or giving away or keeping for sale of cigarette paper or cigarette wrappers or any substitute therefore shall be issued by the City Clerk-Treasurer. Each license shall be issued on the first day of July in each year, or thereafter whenever applied for,

and shall continue in force from date of issuance until the succeeding June 30 unless sooner revoked for any violation of this Section.

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

## CHAPTER 4

### Transient Merchants

7-4-1	Registration Required
7-4-2	Definitions
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#### **SEC. 7-4-1 REGISTRATION REQUIRED.**

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

#### **SEC. 7-4-2 DEFINITIONS.**

In this Chapter:

(a) **Transient Merchant** means any individual who engages in the retail sale of merchandise at any place in this state temporarily, and who does not intend to become and does not become a permanent merchant of such place. For purposes of this Section, sale of merchandise includes a sale in which the personal services rendered upon or in connection with the merchandise constitutes the greatest part of value for the price received, but does not include a farm auction sale conducted by or for a resident farmer of personal property used on the farm, or the sale of produce or other perishable products at retail or wholesale by a resident of this state. Transient merchant shall include any person who sells products for immediate delivery to individual residences or to persons on the street.

(b) **Permanent Merchant** means any person who, for at least one (1) year prior to the consideration of the application of this Chapter to said merchant:

(1) Has continuously operated an established place of business in the local trade area among the communities bordering the place of sale; or

(2) Has continuously resided in the local trade area among the communities bordering the place of sale and now does business from his residence.

(c) **Merchandise** shall include personal property of any kind, and shall include merchandise, goods, or materials provided incidental to services offered or sold. The

sale of merchandise includes donations required by the seller for the retention of merchandise by a donor or prospective customer.

(d) **Charitable Organization** shall include any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such.

(e) **Clerk** shall mean the City of Plymouth Clerk-Treasurer or Deputy Clerk-Treasurer.

(f) **Person** shall mean all humans of any age or sex, partnerships, corporations, associations, groups, organizations and any other description of a collection of human beings working in concert or for the same purpose or objective.

### **SEC. 7-4-3 EXEMPTIONS.**

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

(a) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes;

(b) Any person selling merchandise at wholesale to dealers in such merchandise;

(c) Any person selling agricultural products which the person has grown;

(d) Any permanent merchant or employee thereof who takes orders at the home of the buyer for merchandise regularly offered for sale by such merchant within this county and who delivers such merchandise in their regular course of business;

(e) Any person who has an established place of business where the merchandise being sold are offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested, a home visit by, said person;

(f) Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer;

(g) Any person selling or offering for sale a service unconnected with the sale or offering for sale of merchandise;

(h) Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law;

(i) Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization, provided that there is submitted to the City Clerk-Treasurer proof that such charitable organization is registered under Sec. 440.41, Wis. Stats. Any charitable organization engaging in the sale of merchandise and not registered under Sec. 440.41, Wis. Stats., or which is exempt from that statute's registration requirements, shall be required to register under this Chapter.

(j) Any person who claims to be a permanent merchant, but against whom complaint has been made to the City Clerk-Treasurer that such person is a transient merchant, provided that there is submitted to the City Clerk-Treasurer proof that such person has leased for at least one (1) year, or purchased, the premises from which he/she is conducting business, or proof that such person has conducted such business in this City for at least one (1) year prior to the date complaint was made.

(k) Any individual licensed by an examining board as defined in Sec. 15.01(7), Wis. Stats.

(l) This Chapter does not apply to transient merchants while doing business at special events authorized by the Common Council.

#### **SEC. 7-4-4 REGISTRATION.**

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

(1) Name, permanent address and telephone number, and temporary address, if any;

(2) Height, weight, color of hair and eyes, and date of birth;

(3) Name, address and telephone number of the person, firm, association or corporation that the transient merchant represents or is employed by, or whose merchandise is being sold;

(4) Temporary address and telephone number from which business will be conducted, if any;

(5) Nature of business to be conducted and a brief description of the merchandise offered and any services offered;

(6) Proposed method of delivery of merchandise, if applicable;

(7) Make, model and license number of any vehicle to be used by applicant in the conduct of his business;

(8) Last cities, villages, towns, not to exceed three (3), where applicant conducted similar business just prior to making this registration.

(9) Place where applicant can be contacted for at least seven (7) days after leaving this City;

(10) Statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's transient merchant business within the last five (5) years, the nature of the offence and the place of conviction.

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

(1) A driver's license or some other proof of identity as may be reasonably required;

(2) A state certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighing and measuring devices approved by state authorities;

(3) A state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than ninety (90) days prior to the date the application for license is made.

(c) **Registration Fee.**

(1)<sup>4</sup> At the time of filing applications, a fee of Seventy-five Dollars (\$75.00) shall be paid to the City Clerk-Treasurer to cover the cost of investigation of the facts stated on the application and for processing said application. Every member of a group must file a separate registration form. Failure to file an application and pay the registration fee prior to engaging in sales activity will result in a fee of One Hundred Fifty Dollars (\$150.00) plus any applicable forfeitures.

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

(3) Upon payment of said fee and the signing of said statement, the City Clerk-Treasurer shall register the applicant as a transient merchant and date the entry. Said registration shall be valid through December 31 of the year in which the application is made.

(4) The approved applicant shall obtain a photo identification card annually from the City Clerk-Treasurer. The photo identification card shall show the applicants name, the date of issuance and the date of expiration. The identification card shall be properly and conspicuously displayed at all times by the applicant when engaged as a transient merchant in this city. An identification card shall be deemed to be properly displayed when it is attached to the outer garment of the transient merchant and it is clearly visible to the public and law enforcement officials.

**SEC. 7-4-5 INVESTIGATION.**

(a) Upon receipt of each application, the City Clerk-Treasurer may refer it immediately to the Police Department for an investigation of the statements made in

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<sup>4</sup> Amended by Ordinance No. 21 of 2012. Enacted on September 25, 2012.

such registration, said investigation to be completed within five (5) days from the time of referral.

(b) The City Clerk-Treasurer shall refuse to register the applicant if it is determined, pursuant to the investigation above, that: the application contains any material omission or materially inaccurate statement; complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns, not exceeding three (3), in which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation or ordinance violation within the last five (5) years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or the applicant failed to comply with any applicable provision of Section 7-4-4(b) above.

#### **SEC. 7-4-6 APPEAL.**

Any person denied registration may appeal the denial to the Common Council by filing a written statement therewith within fourteen (14) days after the date registration was denied, setting forth the grounds for appeal. The Common Council shall notify the applicant, at least forty-eight (48) hours prior to the hearing date, of the time and place set for the hearing, such notice to be sent to the address given by the appellant in their statement of appeal or served personally on the appellant.

#### **SEC. 7-4-7 REGULATION OF TRANSIENT MERCHANTS.**

##### **(a) Prohibited Practices.**

(1) A transient merchant shall be prohibited from: calling at any dwelling or other place between the hours of 9:00 p.m. and 8:00 a.m. except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors," or words of similar meaning; calling at the rear door of any dwelling place; or remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.

(2) A transient merchant shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any merchandise offered for sale, the purpose of this visit, his identity or the identity of the organization he represents. A charitable organization transient merchant shall specifically disclose what portion of the sale price of merchandise being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the merchandise.

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

(4) No transient merchant shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a seventy-five (75) foot radius of the source.

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

**(b) Disclosure Requirements.**

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

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

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

**SEC. 7-4-8 RECORDS.**

(a) Any person adjudged in violation of this chapter shall forfeit not less than Fifty Dollars (\$50.00) or more than One Hundred Dollars (\$100.00) for each violation plus costs of prosecution. Each day's violation shall constitute a separate offense.

(b) The Police Department shall report to the City Clerk-Treasurer all convictions for violations of this Chapter and the City Clerk-Treasurer shall note any such violation on the record of the registrant convicted.

**SEC. 7-4-9 REVOCATION OF REGISTRATION.**

(a) Registration may be revoked by the Common Council after notice and hearing if the registrant made any material omission or materially inaccurate statement in the application for registration, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales, violated any provision of this Chapter or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling.

(b) Written notice of the hearing shall be served personally or pursuant to Section 7-4-4(c) on the registrant at least seventy-two (72) hours prior to the time set for the hearing; such notice contain the time and place of hearing and a statement of the acts upon which the hearing will be based.

**CHAPTER 5**



## Mobile Homes

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

#### **SEC. 7-5-1 MONTHLY PARKING FEE; LIMITATIONS ON PARKING.**

(a) There is hereby imposed on each owner of a nonexempt, occupied mobile home in the City of Plymouth a monthly parking fee as determined in accordance with Section 66.0435 of the Wisconsin Statutes which is hereby adopted by reference and made part of this Chapter as if fully set forth herein. It shall be the full and complete responsibility of the licensee to collect the proper amount from each mobile homeowner. Licensees shall pay to the City Clerk-Treasurer such parking and permit fees on or before the 10th day of the month following the month for which such fees are due in accordance with the terms of this Chapter and such regulations as the City Clerk-Treasurer may reasonably promulgate.

(1) Licensees of mobile home parks and owners of land on which are parked any occupied, nonexempt mobile homes shall furnish information to the City Clerk-Treasurer and Assessor on such homes added to their park or land within five (5) days after arrival of such home on forms furnished by the City Clerk-Treasurer in accordance with Sec. 66.0435 of the Wisconsin Statutes.

(2) Occupants or owners of non-exempt mobile homes parked outside of a mobile home park shall remit such fees directly to the City Clerk-Treasurer as provided in Subsection (a). It shall be the full and complete responsibility of the licensee of a mobile home park to collect such fees from each occupied nonexempt mobile home therein and to remit such fees to the City Clerk-Treasurer as provided in Subsection (a).

(b) Owners of nonexempt, occupied mobile homes, upon receipt of notice from the City Clerk-Treasurer of their liability for the monthly parking permit fee, shall remit to the City Clerk-Treasurer a cash deposit of Twenty-five Dollars (\$25.00) to guarantee payment of such fees when due to the City. It shall be the full and complete responsibility of the licensees of a mobile home park to collect such cash deposits from each occupied, nonexempt mobile home therein and to remit such deposits to the City Clerk-Treasurer. Upon receipt of a notice from the owner or licensee that the nonexempt, occupied mobile home has been or is about to be removed from the City, the City Clerk-Treasurer shall apply said cash deposit to reduce any monthly parking permit fees for which said owner is liable and refund the balance, if any, to said owner.

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

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

## **CHAPTER 6**

### Regulation and Licensing of Fireworks

#### 7-6-1 Regulation of Fireworks

## SEC. 7-6-1 REGULATION OF FIREWORKS

(a) **Definition.** In this Section, "fireworks" means anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use, but does not include any of the following:

- (1) Fuel or a lubricant.
- (2) A firearm cartridge or shotgun shell.
- (3) A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.
- (4) A match, cigarette lighter, stove, furnace, candle, lantern or space heater.
- (5) A cap containing not more than one-quarter (1/4) grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.
- (6) A toy snake which contains no mercury.
- (7) A model rocket engine.
- (8) Tobacco and a tobacco product.
- (9) A sparkler on a wire or wood stick not exceeding thirty-six (36) inches in length or 0.25 inch in outside diameter which does not contain magnesium, chlorate, or Perchlorate.
- (10) A device designed to spray out paper confetti or streamers and which contains less than one-quarter (1/4) grain of explosive mixture.
- (11) A device designed to produce an audible sound but not explode, spark, move or emit an external flame after ignition and which does not exceed three (3) grams in total weight.
- (12) A device that emits smoke with no external flame and does not leave the ground.
- (13) A cylindrical fountain not exceeding one hundred (100) grams in total weight with an inside tube diameter not exceeding 0.75 inch, designed to sit on the ground and emit only sparks and smoke.
- (14) A cone fountain not exceeding seventy-five (75) grams in total weight, designed to sit on the ground and emit only sparks and smoke.

(b) **Sale.** No person may sell or possess with intent to sell fireworks, except:

- (1) To a person holding a permit under Subsection (c)(3);
- (2) To a municipality; or
- (3) For a purpose specified under Subsection (c)(2)b-f.

(c) **Use.**

- (1) Permit Required. No person may possess or use fireworks without a user's permit from the Mayor or from an official or employee of the City as designated by the Common Council, and following approval by the Police Chief and Fire Chief. No person may use fireworks or a device listed under Subsection (a)(5)-(7) and (9)-(14) while attending a fireworks display for which a permit has been issued to a person listed under Subparagraph (c)(3)a-e or under Subparagraph (c)(3)f if the display is open to the general public. Such permit shall be in the form as determined by the Common Council. Application for permit

shall be accompanied by a non-refundable fee of One Hundred Dollars (\$100.00).

(2) Permit Exceptions. Subparagraph (c)(1) above does not apply to:

- a. The City, except that City fire and law enforcement officials shall be notified of the proposed use of fireworks at least two (2) days in advance.
- b. The possession or use of explosives in accordance with rules or general orders of the Wisconsin Department of Industry, Labor and Human Relations.
- c. The disposal of hazardous substances in accordance with rules adopted by the Wisconsin Department of Natural Resources.
- d. The possession or use of explosive or combustible materials in any manufacturing process.
- e. The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.
- f. A possessor or manufacturer of explosives in possession of a license or permit under 18 U.S.C. 841 to 849 if the possession of the fireworks is authorized under the license or permit.

(3) Who May Obtain Permit. A permit under this Subsection may be issued only to the following:

- a. A public authority.
- b. A fair association.
- c. An amusement park.
- d. A park board.
- e. A civic organization.
- f. An agricultural producer for the protection of crops from predatory birds or animals.

(4) Crop Protection Signs. A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.

(5) Insurance/Bond. The Mayor issuing a permit under this Subsection shall require a policy of liability insurance from both the permit applicant and display operator in charge of firing the display for the payment of any claims that may arise as the result of injuries to persons or property from the handling, use or discharge of fireworks under the permit. This insurance policy shall be in the minimum amount of Five Hundred Thousand (\$500,000.00) with an excess liability policy in umbrella form of One Million Dollars (\$1,000,000.00) and shall name the City of Plymouth as an additional insured as its interests may appear. The policy, together with a copy of the permit, shall be filed in the office of the City Clerk-Treasurer not less than seven (7) days prior to the use or possession of fireworks within the City.

(6) Required Information for Permit. A permit under this Subsection shall specify all of the following:

- a. The name and address of the organization sponsoring the display, together with the name and address of the persons actually in charge of firing the display.
- b. A certificate of liability insurance which meets the conditions set forth in Section (5) hereinabove.
- c. The date and time of day at which the display is to be held.
- d. The exact location planned for the display.
- e. A description setting forth the age, experience and physical characteristics of the persons who are to do the actual discharging of the fireworks.
- f. The number and kinds of fireworks to be discharged.
- g. The manner and place of storage of such fireworks prior to the display.
- h. A diagram of the grounds on which the display is to be held showing the point at which the fireworks are to be discharged; the location of all buildings, highways and other lines of communication; the lines behind which the audience will be restrained; and the location of all nearby trees, utility poles and lines, and all other overhead obstructions.
- i. Other special conditions as may be prescribed by ordinance.

(7) Minors Prohibited. A permit under this Subsection may not be issued to a minor.

(d) **Storage and Handling.**

(1) Fire Extinguishers Required. No wholesaler, dealer or jobber may store or handle fireworks on the premises unless the premises are equipped with fire extinguishers approved by the Fire Chief.

(2) Smoking, Prohibited. No person may smoke where fireworks are stored or handled.

(3) Fire Chief to be Notified. A person who stores or handles fireworks shall notify the Fire Chief of the location of the fireworks.

(4) Storage Distance. No wholesaler, dealer or jobber may store fireworks within five hundred (500) feet of a dwelling.

(5) Restrictions on Storage. No person may store fireworks within five hundred (500) feet of a public assemblage or place where gasoline or volatile liquid is sold in quantities exceeding one (1) gallon.

(e) **Parental liability.** A parent or legal guardian of a minor who consents to the use of fireworks by the minor is liable for damages caused by the minor's use of the fireworks.

(f) **Sale.** No person shall sell or give away within the City of Plymouth any fireworks except those permitted in Subsection (a).

(g) **Obligations of Property Owner/Sponsor.**

(1) Police Protection Costs. The property owner upon whose premises a permitted fireworks display shall be launched from, and the sponsor thereof, shall be required to pay a fee to the City to cover the costs of police protection necessitated by such display as determined by the Chief of Police prior to the issuance of the permit required by section (c)(1) hereof.

(2) Cleanup Required. The property owner upon whose premises a permitted fireworks display shall have been launched from, and the sponsor thereof, shall clean all debris from the premises from which the fireworks shall have been launched, as well as any premises upon which any debris therefrom shall have fallen, within forty-eight (48) hours following such display. Upon any failure properly so to do, said property owner/sponsor shall pay the cost of such cleanup to the City immediately upon billing.

(3) Fire Inspection Required. The Fire Chief or Inspector shall make an on-site inspection of the display site, equipment, and pyrotechnic devices at least (4) four hours prior to the discharge of any fireworks. If the fire chief or inspector determines that all requirements of this Section have not been met, or that a threat to public safety exists, he shall order postponement of the event until all requirements have been met and that a threat to public safety no longer exists. If a postponement order is issued, the permit issued pursuant to Section (c)(1) hereof shall be considered as being suspended until such order be lifted.

(h) **Restrictions on Aerial Displays.** The following shall govern the operation of public aerial fireworks displays, and, unless otherwise specified, the authority having jurisdiction to determine compliance shall be the Fire Chief or his authorized designee.

(1) The property owner/sponsor of the display shall provide adequate fire protection for the display as may be required by the Fire Chief or his authorized designee.

(2) The property owner/sponsor shall consult with the Fire Chief or his authorized designee to determine the level of fire protection required.

(3) Monitors, whose sole duty shall be the enforcement of crowd control shall be located around the display area by the property owner/sponsor, the number of which shall be determined by the Fire Chief or his authorized designee.

(4) Monitors shall be located around the discharge area to prevent spectators or any other unauthorized persons from entering the discharge area. The discharge area shall be restricted throughout the display and until inspected following completion of the display by the Fire Chief or his authorized designee. Where practical, fences and rope barriers shall be used to aid in crowd control.

(5) If, in the opinion of the Fire Chief or his authorized designee, or the display operator, lack of crowd control should pose a danger, the display shall immediately be discontinued until such time as the situation is corrected and again considered safe.

(6) If at any time high winds or unusually wet weather prevail such that in the opinion of either the Fire Chief or his authorized designee, or the display operator, a definite danger exists, the public display shall be postponed until weather conditions improve to an acceptable level. Light snow or mist need not cause delay or cancellation of the display. However, all materials used in the display shall be protected from the weather by suitable means prior to use.

(7) Display operators and assistants shall use only flashlights or electric lighting for artificial illumination. No smoking or open flames shall be allowed in the shell storage area as long as shells are present.

- (i) **Violations.** Any violation of this Section shall be subject to a forfeiture of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), together with the costs of prosecution. Each day of violation shall be considered as a separate offense.

## CHAPTER 7

### Taxicabs

7-7-1	Regulation of Taxicabs
7-7-2	Insurance Required
7-7-3	Inspection Required
7-7-4	Conditions of License
7-7-5	Exceptions
7-7-6	Taxi Driver's License
7-7-7	Refusal to Pay Taxi Fare Prohibited
7-7-8	Revocation of License

### SEC. 7-7-1 REGULATION OF TAXICABS.

(a) No person, firm or corporation shall engage in the business of operating taxicabs or other vehicles for transportation of persons for hire within the City without having a valid license from the City of Plymouth for each cab or vehicle operated. No person shall drive an unlicensed cab within the City of Plymouth for hire.

(b) Application for the licensing of a taxicab business shall be filed with the City Clerk-Treasurer, together with a tendered license fee prorated on the basis of the annual license fee set forth in Subsection (d), should each remaining portion of the calendar license year be less than eleven (11) months. The City Clerk treasurer shall present such application to the Common Council at its next regular meeting and the Council shall consider such application and shall instruct the City Clerk-Treasurer to issue the license or dismiss the application upon a majority vote of the Council.

(c) No license for taxicab business based on new application therefore shall be issued except upon a showing that the available transportation facilities are not adequate to meet the public need and that the applicant is proper and able to furnish it.

(d) The license for any cab shall expire on the first day of July following its issue, and the fee for the privilege of engaging in the taxicab business and the licensing of one (1)

cab shall be Twenty-five Dollars (\$25.00) for a year or any fraction thereof and Five Dollars (\$5.00) for each additional cab licensed.

**SEC. 7-7-2 INSURANCE REQUIRED.**

(a) It shall be unlawful to operate a vehicle for the conveyance of passengers for hire or permit the same to be operated, nor shall any license be issued hereunder until and unless the applicant for a license deposit with the City Clerk treasurer a certificate of liability insurance for the vehicles for which licenses are sought, said certificate of liability insurance to be acceptable and approved by the City Clerk-Treasurer and issued by a company authorized to do business in the State of Wisconsin, indemnifying the applicant in the amount of One Hundred Thousand Dollars (\$100,000.00) for damage to property, and One Hundred Thousand Dollars (\$100,000.00) for injury to one (1) person and Three Hundred Thousand Dollars (\$300,000.00) for any one (1) accident caused by the operation of said vehicles in the City of Plymouth.

(b) Each taxicab insurance policy shall contain a provision that the same may not be canceled before the expiration of its term except upon thirty (30) days' written notice to the City. Every day upon which any vehicle is operated for the conveyance of passengers for hire or when taxicab or cab or similar transportation is offered to the public without an insurance policy as required herein being in effect and on file with the City Clerk-Treasurer shall be deemed a separate violation. The cancellation or other termination of any insurance policy issued in compliance with this Section shall automatically revoke and terminate all licenses issued for the taxicab covered by such insurance policy, unless another policy shall be provided and in effect at the time of such cancellation or termination.

**SEC. 7-7-3 INSPECTION REQUIRED.**

(a) No vehicle shall be licensed until it has been annually examined by a reputable automobile repair facility and found to be in a thoroughly satisfactory and safe condition for the transportation of passengers, clean, of good appearance and well painted. The Chief of Police shall determine whether said vehicle complies with all the other provisions of this Chapter. If such examination and inspection shows that vehicle does not conform with any of the provisions of this Section, no license shall be issued. At the request of the Chief of Police, the taxicab owners shall take their vehicles to a reputable garage for an independent inspection at owner's expense.

(b) No taxicab shall be licensed until the Police Department has approved that:

(1) The horn, foot brake, windshield, rear vision mirror, fenders, exhaust system, windshield wipers, emergency brake, directional signals, speedometer, license lamps, tires, headlamps, stop lamps and tail lamps are in legal working order as required by the Wisconsin Motor Vehicle Code;

(2) The taxicab is in generally safe, sanitary and reliable condition.

(c) The inspection required by this Section is only an inspection of the taxicab's exterior and passenger areas and shall not be a thorough mechanical inspection of the taxicab. Nothing in this Section shall be interpreted as relieving the owner or operator of a taxicab from any and all liability arising from any unsafe, unsanitary, unreliable or

illegal conditions existing in his taxicab, whether or not such conditions are discovered or omitted by the inspections required herein. This Section shall not be interpreted as creating a duty or liability on the part of the City of Plymouth, the Police Department or any employee or agent of the City to any person.

(d) Any police officer of this City may, at all reasonable times, inspect any cab or public hack under such taxicab business license and may prohibit the use of any cab which is unsafe or not in proper repair.

#### **SEC. 7-7-4 CONDITIONS OF LICENSE.**

(a) **Licenses Nontransferable.** Licenses issued or granted under this Chapter shall be nonassignable and nontransferable.

(b) **Information Card to be Displayed.** A card containing the name of the owner, license number, the number of the vehicle and rates of fare printed thereon shall be placed and at all times kept in a conspicuous place inside such vehicle.

(c) **Liability of Licensee.** Any licensee shall be liable for any violations of ordinances or statutes by any and all persons operating taxicabs under its license.

(d) **Number of Passengers.** No licensee or person driving a taxicab shall carry or permit to be carried in any such vehicle more than the number of persons specified in the license applicable to such vehicle.

(e) **Common Council May Impose Further Restrictions.** Any licensee hereunder shall be subject to such further regulations and restrictions as may be imposed at any time by the Common Council.

(f) **Posting Rates.** Any person operating a taxicab shall, at all times, prominently post and display in the taxicab, so they are visible to the passengers therein, the rates of fares for the use of the cab.

(g) **Marking.** Every taxicab shall be distinctly marked on two (2) sides, in letters not less than one and one-half inches (1-1/2") in height, with the words "Taxicab" together with the licensee's name.

#### **SEC. 7-7-5 EXCEPTIONS.**

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

#### **SEC. 7-7-6 TAXI DRIVER'S LICENSE.**

(a) **License Requirement.** No person shall drive a taxicab or other vehicle used for the transportation of persons for hire in the City of Plymouth without first having obtained a cab driver's license. He shall file his application with the City showing his name, citizenship, residence, age, previous experience, whether or not he has ever been arrested and such other information as may be required and shall tender with his



application the required license fee. The license shall be issued by the Council if it appears to its satisfaction that the applicant is of good moral character, is trustworthy, is not physically handicapped, is over eighteen (18) and possesses a driver's license from the State of Wisconsin, and the vehicles he proposes to operate are licensed vehicles properly covered by liability insurance as required by this ordinance.

The license shall be in the form of a photo identification card obtained at the Clerk-Treasurer's office and shall show the name, age, residence, and telephone number of the licensee as well as a current photo which will be taken at the City Clerk-Treasurer's office. The license shall either be displayed in a prominent place or worn as a badge on the licensee at all times when the licensee is operating the licensed vehicle

(b) **Emergency Cab Driver's License.** In the event that any local cab company is in need of a cab driver and there are no qualified licensed cab drivers available, then, and in that event only, after application has been made for the cab driver's license, the required fee paid, and the applicant has a personal identification card issued by the City, the Chief of the Police may issue a temporary license to such applicant, good only to the next regular Council the Council, and if the application is approved by the Council, no further fee will be required of the applicant.

(c) **Term and Fees for Driver's Licenses.** Every license shall expire on the first day of July following the date of issue and the fee shall be Fifteen Dollars (\$15.00) a year or any fraction thereof.

#### **SEC. 7-7-7 REFUSAL TO PAY TAXI FARE PROHIBITED.**

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

#### **SEC. 7-7-8 REVOCATION OF LICENSE.**

(a) **Revocation.** Licenses granted under Sections 7-7-1 through 7-7-6 may be suspended or revoked at any time by the Chief of Police for any violation of this Chapter. When a taxicab license is revoked or canceled as herein provided, the Chief of Police shall immediately notify the owner to cease at once to operate the vehicle for which the license has been revoked as a taxicab.

(b) **Appeals.** Any person who received a revocation of license and objects to all or part thereof may appeal to the Common Council within seven (7) days of the receipt of the order and the Common Council shall hear such appeal within thirty (30) days of receipt of such written notice of the appeal. After such hearing the Common Council may reverse, affirm or modify the order or determination.

### **CHAPTER 8**

#### **Street Use Permits**

##### **7-8-1 Street Use Permits**

## SEC. 7-8-1 STREET USE PERMITS.<sup>5</sup>

(a) **Purpose.** The streets in possession of the City are primarily for the use of the public in the ordinary way. However, under proper circumstances, the Common Council may grant a permit for street use, subject to reasonable municipal regulation and control. Therefore, this Chapter is enacted to regulate and control the use of streets pursuant to a Street Use Permit to the end that the health, safety and general welfare of the public and the good order of the City can be protected and maintained.

(b) **Application.** A written application for a Street Use Permit by persons or groups desiring the same shall be made on a form provided by the City Clerk-Treasurer and shall be filed with the City Clerk-Treasurer. The application shall set forth the following information regarding the proposed street use:

- (1) The name, address and telephone number of the applicant or applicants.
- (2) If the proposed street use is to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorizing responsible heads of such organization.
- (3) The name, address and telephone number of the person or persons who will be responsible for conducting the proposed use of the street.
- (4) The date and duration of time for which the requested use of the street is proposed to occur.
- (5) An accurate description of that portion of the street proposed to be used.
- (6) The approximate number of persons for whom use of the proposed street area is requested.
- (7) The proposed use, described in detail, for which the Street Use Permit is requested.

(c) **Representative at Meeting.** The person or representative of the group making application for a Street Use Permit shall be present when the Common Council gives consideration to the granting of said Street Use Permit, if such presence is requested by the Common Council or City staff, to provide any additional information which is reasonably necessary to make a fair determination as to whether a permit should be granted.

(d) **Review by Chief of Police and Director of Public Works.** Before any application for a Street Use Permit is considered by the Common Council, the application shall be reviewed by the Director of Public Works and Chief of Police for their recommendation as to the affect that the temporary closing of the street will have on the public safety and traffic movement in the area during the time the street may be closed.

(e) **Mandatory Denial of Street Use Permit.** An application for a Street Use Permit shall be denied if:

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<sup>5</sup> Amended pursuant to Ordinance No. 10 of 2011. Enacted June 14, 2011.

(1) The proposed street use would violate any federal or state law or any Ordinance of the City.

(2) The proposed street use will substantially hinder the movement of police, fire or emergency vehicles, constituting a risk to persons or property.

(3) The application for a Street Use Permit does not contain the information required above.

(4) The application requests a period for the use of the street in excess of twelve (12) hours.

(5) In addition to the requirement that the application for a Street Use Permit shall be denied, as hereinabove set forth, the Common Council may deny a permit for any other reason or reasons if it concludes that the health, safety and general welfare of the public cannot adequately be protected and maintained if the permit is granted.

(f) **Permit Fee.**<sup>6</sup> Each application for a Street Use Permit shall be accompanied by a fee of Twenty Five Dollars (\$25.00).

(g) **Consent to Issuance of Street Use Permit.** In addition to the fee required by the previous Subsection, the Common Council or City staff may require any application for a Street Use Permit, except for parades or races sponsored by civic, youth or scout organizations which have been in existence for at least six (6) months, to be accompanied by a petition designating the proposed area of the street to be used and time for said proposed use, said petition to be signed by not less than seventy-five percent (75%) of the residents over eighteen (18) years of age residing along that portion of the street designated for the proposed use. Said petition shall be verified and shall be submitted on a form available from the City Clerk.

(h) **Insurance.** The applicant for a Street Use Permit may be required to indemnify, defend and hold the City and its employees and agents harmless against all claims, liability, loss, damage or expense incurred by the City on account of any injury to or death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the permit, the applicant may be required to furnish a Certificate of Comprehensive General Liability Insurance with the City of Plymouth. The applicant may be required to furnish a performance bond prior to being granted the permit.

(i) **Termination of a Street Use Permit.** A Street Use Permit for an event in progress may be terminated by the Police Department if the health, safety and welfare of the public appears to be endangered by activities generated as a result of the event or the event is in violation of any of the conditions of the permits or Ordinances of the City of Plymouth. The Chief of Police has the authority to revoke a permit or terminate an event in progress if the event organizers fail to comply with any of the regulations in the street use policy or conditions stated in the permit.

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<sup>6</sup> Amended by Ordinance No. 9 of 2013. Enacted on September 24, 2013.

## CHAPTER 9

### Regulation of Nonmetallic Mining

7-9-1	Repealed
7-9-2	Definitions
7-9-3	Existing Nonmetallic Mining Operations
7-9-4	Exempt Activities
7-9-5	Permit Required for Nonmetallic Mining
7-9-6	Permit Revocation
7-9-7	Blasting and/or Rock Crushing

#### SEC. 7-9-2 DEFINITIONS.

As used in this Chapter:

(a) **Environmental Pollution** has the meaning specified under Sec. 144.01(3), Wis. Stats.

(b) **Nonmetallic Mining or Nonmetallic Mining Operation** means operations or activities for the extraction from the earth for sale or use by the operator of mineral aggregates such as stone, sand and gravel, fill material and nonmetallic minerals such as asbestos, beryl, clay, feldspar, peat and talc, related operations or activities such as excavation, grading or dredging if the purpose of those operations or activities is the extraction of mineral aggregates and non-metallic minerals and related processes such as crushing, screening, scalping, dewatering and blending.

(c) **Nonmetallic Mining Refuse** means waste soil, rock, mineral, liquid, vegetation and other waste material resulting from a nonmetallic mining operation. This term does not include merchantable by-products resulting directly from or displaced by the nonmetallic mining operation.

(d) **Nonmetallic Mining Site or Site** means the location where a nonmetallic mining operation is proposed or conducted, including all surface areas from which materials are removed, related storage and processing areas, areas where nonmetallic mining refuse is deposited and areas disturbed by the nonmetallic mining operation by activities such as the construction or improvement of roads or highways.

(e) **Operator** means any person who is engaged in a nonmetallic mining operation or nonmetallic mining site reclamation or who applies for or holds a nonmetallic mining permit issued under this nonmetallic mining reclamation ordinance whether individually, jointly or through subsidiaries, agents, employees, contractors or subcontractors.

(f) **Reclamation** means the rehabilitation of a nonmetallic mining site including, but not limited to, removal of nonmetallic mining refuse, grading of the site, replacement of topsoil, stabilization of soil conditions, establishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution, construction of fences and, if practical, restoration of plant, fish and wildlife habitat.

(g) **Replacement of Topsoil** means the replacement of the topsoil which was removed or disturbed by a nonmetallic mining operation or the provision of soil which is

at least as adequate as the topsoil which was removed or disturbed for the purposes of providing adequate vegetative cover and stabilization of soil conditions.

### **SEC. 7-9-3 EXISTING NONMETALLIC MINING OPERATIONS.**

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

### **SEC. 7-9-4 EXEMPT ACTIVITIES.**

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

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

### **SEC. 7-9-5 PERMIT REQUIRED FOR NONMETALLIC MINING.**

- (a) **Permit Required.** No person shall operate any nonmetallic mining site or operation within the City unless he obtains a nonmetallic mining permit from the Common Council. The fee for such permit shall be Fifty Dollars (\$50.00), plus any actual City administrative expenses, payable by certified check. Operators of existing nonmetallic mining operations shall apply for such permit within thirty (30) days of the effective date of this Chapter.
- (b) **Required Permit Information.** An application for a nonmetallic mining permit shall be submitted by the operator and shall include:
  - (1) An adequate description of the operation, including a legal description of the property;

- (2) A plan of the site showing the proposed and existing roads and drives, and the sources, quantity and disposition of water to be used, if any;
  - (3) Estimated dates for completion of the extraction and commencement and completion dates for the reclamation;
  - (4) A reclamation plan and such other information as may be necessary to determine the nature of the operation and the effect on the surrounding area;
  - (5) Methods of screening from adjacent properties;
  - (6) Hours of operation;
  - (7) Dust and noise control;
  - (8) Maximum depth;
  - (9) Blasting procedures;
  - (10) Location and height of stockpiles; and
  - (11) Such other information the Common Council deems pertinent to the operation.
- (c) **Reclamation Plan.** The reclamation plan shall contain adequate provision that:
- (1) All final slopes around the area be flatter than a three (3) to one (1) horizontal slope in a sand, gravel or borrow pit operation, or in a safe angle or repose in a quarrying operation;
  - (2) Excavations below the grade of the nearest abutting public street or highway shall be set back from the street or highway a distance not less than that required for buildings and structures in the same zoning district;
  - (3) Excavations made to a water-producing depth shall be not less than three (3) feet measured from the low water mark;
  - (4) All final slopes shall be covered with adequate topsoil and seeded to prevent erosion;
  - (5) The plan shall require that, after completion of the anticipated operation, the area shall be cleared of all debris and be left in a workmanlike condition, subject to the approval of the Common Council;
  - (6) There is a timetable for completion of various stages of reclamation of the nonmetallic mining site.
- (d) **Applications.** All applications for a license hereunder shall be made in writing upon the written form provided by the City and distributed by the City Clerk-Treasurer. All applications for permits hereunder shall be signed by the applicant and filed with the City Clerk-Treasurer at least sixty (60) days prior to the licensing period. The City

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

(e) **Financial Assurance.** Before a license and reclamation plan is approved by the Common Council, the operator shall submit an agreement and performance bond or cash escrow agreement to assure the following:

(1) The operator shall pay for the cost of all improvements required in the reclamation plan by the Common Council.

(2) Guaranteed completion of the required reclamation within a period determined by the Council.

(3) Payment by the operator for all costs incurred by the City for review and inspection. This would include preparation and review of plans and specifications by the City Engineer and Attorney, as well as other costs of a similar nature.

(4) The City may elect to have stages of the reclamation plan performed under the terms of a cash escrow agreement.

(5) The required performance bond or cash escrow agreement shall be equal to one and one-quarter (1-1/4) times the City Engineer's estimated cost of the required improvements.

(6) If the required reclamation is not complete within the designated period, all amounts held under the escrow agreement or performance bond shall be turned over and delivered to the City and applied to the cost of the required reclamation. Any balance remaining after such reclamation has been done shall be returned to the operator. The Common Council, at its option, may extend the bond period for additional periods.

(f) **Fences.** Prior to reclamation, nonmetallic mining sites abutting areas zoned residential shall be enclosed by a security fence of not less than four (4) feet in height. Fence gates shall be locked or secured when the site is unattended so as to prevent uncontrolled access by children to the site.

(g) **Inspection.** An authorized agent of the City may enter the premises of a nonmetallic mining operation in the performance of his or her official duties by permission of the property owner or operator or pursuant to a special inspection warrant issued under Sec. 66.0119, Wis. Stats., in order to inspect those premises and to ascertain compliance with this nonmetallic mining reclamation Chapter.

(h) **Prohibitions and Orders.** Nonmetallic mining operations within the City are prohibited if the nonmetallic mining site cannot be reclaimed in compliance with the standards of this Chapter or if other requirements of this Chapter are not met.

#### **SEC. 7-9-6 PERMIT REVOCATION.**

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

#### **SEC. 7-9-7 BLASTING AND/OR ROCK CRUSHING.**

(a) **Definitions.** The following definitions shall apply in the interpretation and enforcement of this Section:

(1) Blasting. A method of loosening, moving or shattering masses of solid matter by use of explosive compounds to prepare stone for crushing, to prepare stone for building and/or ornamental use, or to prepare property for development.

(2) Person. Any individual, partner, corporation, company, trustee or association, together with the respective servants, agents and employees thereof.

(3) Rock Crusher. Any device, machine, apparatus or equipment used either individually or in conjunction with any other device, machine, apparatus or equipment for the purpose of crushing, grinding, breaking or pulverizing rock or stone.

(b) **Operation.** No person within the City shall operate a rock crusher or perform blasting in such a manner so that any dust, dirt or vibration from such operation shall, in any way, damage or injure any person or property within the City. All blasting within the City shall be performed according to the requirements of Ch. IND 5, Explosives and Blasting Agents, Wis. Adm. Code, and all subsequent amendments thereto.

(c) **Permit.**

(1) Permit Required. No person within the City shall operate a rock crusher or perform blasting who does not possess a proper permit therefore from the City.

(2) Applications. All applications for permits hereunder shall be made in writing upon the written form provided by the City and distributed by the City Clerk-Treasurer. All applications for permits hereunder shall be signed by the applicant and filed with the City Clerk-Treasurer at least sixty (60) days prior to the licensing period. The City Clerk-Treasurer shall immediately refer all applications for permits hereunder to the City Engineer. The City Clerk-Treasurer shall issue a permit hereunder only after first receiving the recommendation of the City Engineer, the duly executed certified check for the permit fee as hereinafter provided and the submittal of the Plan of Operation, if required, as approved by the City Engineer.



(3) Certified Check. Each application for a permit hereunder shall be accompanied by a certified check in the sum of the required permit fee as Hereinafter provided, or a renewal thereof, the same to be payable to the City.

(4) Plan of Operation. Each application to permit a rock crusher hereunder or renewal thereof shall be accompanied by a Plan of Operation which shall include: methods of screening from adjacent properties, hours of operation, hours of blasting and operation of rock crusher, dust and noise control, blasting procedures, location and height of stock piles, whether a rock crusher will be needed and how often, water supply, drainage course, maximum depth, legal description of property in question and other information the City Engineer deems pertinent to the proposed operation. Such Plan of Reorganization shall be approved by the City Engineer.

(5) Each application for a blasting permit shall be accompanied by a Certificate of Insurance identifying the City of Plymouth as a party insured in the amount of Five Hundred Thousand Dollars (\$500,000.00) for damage to property, and Five Hundred Thousand Dollars (\$500,000.00) for injury to one (1) person and One Million Dollars (\$1,000,000.00) for injury to more than one (1) person caused by the blasting.

(d) **Renewals.** All requests for renewals of permits hereunder shall be made at least sixty (60) days prior to the expiration date of the permit and must comply with all requirements of Subsection (c) above.

(e) **Blasting Procedures and Controls.**

(1) Energy Ratio. The allowable vibration of any blast at the nearest occupied or used building off the subject premises shall not exceed an energy ratio of 0.5 or resultant particle velocity of 1.35" per second based on the following formula:

Energy ratio =  $0.5 = 10.823 f^2 A^2$  where: f = frequency in cycles per second, A = amplitude or displacement in inches

Energy ratio =  $.274 V^2$  (V = resultant particles velocity expressed in inches per second)

(2) Measurement of Blasts. The operator of the quarry operation, when requested to do so by the City Engineer, shall measure and submit data to substantiate compliance with the above formula and the operator of the quarry operation, when requested to do so by the City Engineer, shall measure air blast. This verification shall be performed by a seismological engineering firm acceptable to the City or by the City Engineer. Instrumentation shall be by seismograph similar to VME Seismolog Model "B" and approved seismograph sound measuring equipment or approved equivalents. All expenses for these tests shall be paid by the quarry operator.

(3) Blasting Log. A log in duplicate shall be kept of each blast on forms similar to the one on file with the City Clerk-Treasurer. The original copy of this

blasting log shall be filed with the City Clerk-Treasurer within forty-eight (48) hours after the blast, and a copy shall be kept on file at the quarry office.

(4) Cover Material. Operators of quarries for building and/or ornamental stone removal shall cover Primacord, other detonating cord or surface-laid blasting devices with at least one foot (1') of dirt or other suitable cover material.

(f) **Permit Fee.** The permit fee for any permit issued pursuant to this Section shall be as set forth below. No permit fee shall be prorated. All permits issued hereunder shall expire on December 31 following the date of issue:

(1) Quarries using blasting to supply buildings and/or ornamental stone: Ten Dollars (\$10.00) per blasting period.

(2) Gravel crushing operations using portable or fixed crushing equipment less than thirty (30) days per year: Ten Dollars (\$10.00) per year.

(g) **Penalty.** Any person who shall violate any of the provisions of this Section shall be subject to a penalty as provided in Sec. 1-1-7 of this Code of Ordinances. However, upon conviction for the violation of any of the provisions of this Section by the holder of a permit issued hereunder, and in addition to the forfeiture provided, such permit shall thereupon be canceled, revoked, rescinded and terminated.

(h) **Enforcement.** Before renewal of any license issued under this Section is refused or any license is revoked, canceled, rescinded or terminated, the licensee shall be given written notice of any charges or violations against him or the reasons proposed for nonrenewal or revocation and shall have an opportunity to be heard before the Common Council.

## CHAPTER 10

### Licensees to Pay Local Claims; Appellate Procedures

7-10-1 Licensees Required to pay Local Taxes, Assessments and Claims; Appellate Procedures

#### **SEC. 7-10-1 LICENSEES REQUIRED TO PAY LOCAL TAXES, ASSESSMENTS AND CLAIMS.**

(a) **Payment of Claims as Condition of License.** The City shall not issue or renew any license to transact any business within the City of Plymouth:

(1) For any purposes for which taxes, assessments or other claims of the City are delinquent and unpaid.

(2) For any person who is delinquent in payment:

- a. Of any taxes, assessments or other claims owed the City; or
- b. Of any forfeiture resulting from a violation of any City Ordinance.

(b) **Exception.** This Section shall apply to licenses issued pursuant to the provisions of Title 7 of this Code of Ordinances, except Chapters 1 and 5.

(c) **Applicability.** An application for renewal of a license subject to this Chapter shall be denied pursuant to the provisions of Subsection (a) only following notice and opportunity for hearing as provided by Subsection (d) below.

(d) **Appeals; Notice and Hearing.** Prior to any denial of an application for renewal of a license, including denials pursuant to Subsection (a), the applicant shall be given notice and opportunity for a hearing as hereinafter provided:

(1) With respect to licenses renewable under Chapter 2 of Title 7 of this Code of Ordinances, notice and opportunity for hearing shall be as provided by Section 125.12, Wis. Stats., as amended from time to time.

(2) With respect to licenses other than those described in Subsection (a) herein, the Common Council or its assignee shall notify the applicant in writing of the City's intention not to renew the license and shall provide the applicant with an opportunity for hearing. The notice shall state the reasons for the intended action and shall establish a date, not less than three (3) days nor more than ten (10) days after the date of the notice on which the applicant shall appear before the Common Council. If the applicant shall fail to appear before the Council on the date indicated on the notice, the Council shall deny the application for renewal. If the applicant appears before the Council on the date indicated in the notice and denies that the reasons for nonrenewal exist, the Common Council shall conduct a hearing with respect to the matter. At the hearing, both the City and the applicant may produce witnesses, cross examine witnesses and be represented by counsel. The applicant shall, upon request, be provided a written transcript of the hearing at the applicant's expense. If the Common Council determines the applicant shall not be entitled to renewal pursuant to Subsection (a), the application for renewal shall be denied.

(e) **Other License Denial Appeals.** Where an individual, business or corporation wishes to appeal the City Clerk-Treasurer's decision not to issue a license or permit under this Title on grounds other than those specified in Subsections (a) through (d) above, the applicant may file a request in writing with the City Clerk-Treasurer that the matter be referred to the Common Council. A public hearing shall be scheduled within fourteen (14) calendar days by the Common Council. All parties may be represented by counsel. The Council shall consider all relevant information and shall render a decision which shall be binding.

## CHAPTER 11

### Businesses Licensed

#### SEC 7-11-1 ADULT ORIENTED ESTABLISHMENTS

(a) **Definitions:**

(1) "Adult-oriented establishment", shall mean any premises including, but not limited to, "adult bookstores", "adult motion picture theaters", "adult mini-motion picture establishments", or "adult cabarets" to which public patrons

or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purposes of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, whether or not such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect, "adult motel", "escort agency", "nude model studio", "massage parlor", or "sexual encounter establishment".

(1a) "Adult Arcade" means any place to which the public is permitted or invited wherein coin-operated, slug-operated or for any form of consideration, the public may view electronically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities of specified anatomical areas.

(2) "Adult bookstore, Adult Novelty Store and/or Adult Video Store" means a commercial establishment which has 10% of its gross revenues or 5% of its book, magazine, periodicals films, video cassettes, adult devices, or paraphernalia inventory in subject matter which is characterized by the depiction or description by their emphasis on matters depicting, describing or relating to specific anatomical areas or specified sexual activities.

(3) "Adult motion picture theater" means an enclosed building with a capacity of fifty (50) or more persons used for presenting material having as its dominant theme, or distinguished or characterized by an emphasis on, matters depicting, describing or relating to "specified sexual activities", or "specified anatomical areas", as defined below, for observation by patrons therein.

(4) "Adult mini-motion picture theater" means an enclosed building with a capacity of less than fifty (50) persons used for presenting material having as its dominant theme, or distinguished or characterized by an emphasis on, matters depicting, describing or relating to "specified sexual activities", or "specified anatomical areas", as defined below, for observation by patrons therein.

(5) "Adult cabaret" means a cabaret which features topless dancers, strippers, male or female impersonators, or similar entertainers

(6) "Adult motel" means a motel, hotel, or similar commercial establishment which (a) offers public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" and which advertises the availability of this sexual oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including but not limited to newspapers, magazines, pamphlets or leaflets, radio, television, or (b) offers a sleeping room for rent for a period of time less than ten (10) hours; or (c) allows a tenant or occupant to sub-rent the sleeping room for a time period of less than ten (10) hours.

(7) "Council" means the Common Council for the City of Plymouth, Sheboygan County, Wisconsin.

(8) "Adult entertainment" means any exhibition of any motion pictures, live performance, display or dance of any type, which has as its dominant theme, or is distinguished or characterized by an emphasis on, any actual or simulated "specified sexual activities", or "specified anatomical areas", as defined below.

(9) "Escort Agency" means a person or business association that furnishes, offers to furnish, or advertises to furnish "escorts" as one of its primary business purposes for a fee, tip, or other compensation.

(10) "Escort" means a person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person to whom such person is not married at such time.

(11) "Operators" means any person, partnership, or corporation operating conducting, maintaining or owning any adult-oriented establishment.

(12) "Specified sexual activities" means simulated or actual:

- a. Showing of human genitals in a state of sexual stimulation or arousal;
- b. Actual or simulated acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochistic abuse, fellatio or cunnilingus;
- c. Fondling or erotic touching of human genitals, pubic region, buttocks, or female breasts.

(13) "Specified anatomical areas" means:

- a. Less than completely and opaquely covered human genitals, pubic region, buttocks, and female breasts below the point immediately above the top of the areola;
- b. Human male genitals in a discernible turgid state, even if opaquely covered.

(14) "Massage parlor" means any place where, for any form of consideration or gratuity, message, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment manipulation of the human body which occurs as a part of or in connection with "specified sexual activities" or where any person providing such treatment, manipulation, or service related thereto, exposes his or her "specified anatomical areas." This definition shall specifically not include the practice of message in any licensed hospital, nor by any licensed hospital, nor by a licensed physician, surgeon, chiropractor or osteopath, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur, semiprofessional or professional athlete or athletic team or school athletic program.

(15) "Nude Model Studio" means any place where a person who regularly appears in a state of nudity or displays "specified anatomical areas" is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons, except as below:

a. By a proprietary school licensed by the State of Wisconsin; a college, junior college, or university supported entirely or partly by taxation,

b. By a private college or university which maintains and operates educational programs in which credits are transferrable to a college junior college, or university supported entirely or partly by taxation; or,

c. In a structure which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing, and, where in order to participate in a class a student must enroll at least three (3) days in advance of the class, and where no more than one nude model is on the premises at any one time.

(16) "Sexual Encounter establishment" means a business or commercial establishment that as one of its primary business purposes offers for any form of consideration a place where two or more persons may congregate, associate, or consort for the purpose of "specified sexual activities" or the exposure of "specified anatomical areas" or activities when one or more of the persons is in a state of nudity or semi-nudity, but shall not include an establishment where a medical practitioner, physician, osteopath, chiropractor, psychologist, psychiatrist, or similar professional person licensed by the State of Wisconsin engages in medically approved and recognized sexual therapy or medical treatment.

(b) **License Required.**

(1) Except as provided in subsection (d) below, from and after the effective date of this ordinance, no adult-oriented establishment shall be operated or maintained in the City of Plymouth without first obtaining a license to operate issued by the City of Plymouth.

(2) A license may be issued only for (1) adult-oriented establishment located at a fixed and certain place. Any person, partnership, or corporation which desires to operate more than one adult-oriented establishment must have a license for each.

(3) No license or interest in a license may be transferred to any person, partnership or corporation.

(4) All adult-oriented establishments existing at the time of the passage of this ordinance must submit an application for a license within sixty (60) days of the passage of this ordinance.

(c) **Application For License.**

(1) Any person, partnership or corporation desiring to secure a license shall make application to the City Clerk. The application shall be filed in triplicate and dated by the City Clerk. A copy of the application shall be distributed promptly by the City Clerk to the City of Plymouth Police Department and to the applicant.

(2) The application for a license shall be upon a form provided by the City Clerk. An applicant for a license shall furnish the following information under oath:

a. Name and address.

b. Written proof that the individual is at least eighteen (18) years of age.

c. The address of the adult-oriented establishment to be operated by the applicant.

d. If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the name and address of the registered agents and the name and address of all shareholders owning more than five percent (5%) of the stock in said corporation and all officers and directors of the corporation.

(3) Within twenty-one (21) days of receiving an application for a license the City Clerk shall notify the applicant whether the application is granted or denied.

(4) Whenever an application is denied, the City Clerk shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held within ten (10) days thereafter before the Common Council, as hereinafter provided.

(5) Failure or refusal of the applicant to give any information relevant to the application or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with regard to any information required by this ordinance shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the City Clerk.

(d) **Standards for Issuance of License.**

(1) To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:

a. If the applicant is an individual:

1. The applicant must be at least eighteen (18) years of age.

2. The applicant shall not have been found to have previously violated this ordinance within five (5) years immediately preceding the date of the application.

b. If the applicant is a corporation:

1. All officers, directors, and stockholders required to be named under Section 3(b) shall be at least eighteen (18) years of age.

2. No officer, director, or stockholder required to be named under Section 3(b) shall have been found to have previously violated this ordinance within five (5) years immediately preceding the date of the application.

c. If the applicant is a partnership, joint venture, or any other type of organization where two (2) or more persons have a financial interest:

1. All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age.

2. No person having a financial interest in the partnership, joint venture or other type of organization shall have been found to have violated any provision of this ordinance within five (5) years immediately preceding the date of the application.

(e) **Fees.** A license fee of Five Hundred Dollars (\$500.00) shall be submitted with the application for a license. If the application is denied, one-half (1/2) of the fee shall be returned.

(f) **Display of License or Permit.** The license shall be displayed in a conspicuous public place in the adult-oriented establishment.

(g) **Renewal of License or Permit.**

(1) Every license issued pursuant to this Section will terminate at the expiration of one (1) year from date of issuance, unless sooner revoked and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the City Clerk. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be upon a form provided by the City Clerk and shall contain such information and data, given under oath or affirmation, as is required for an application for a new license.

(2) A license renewal fee of \$500.00 shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of \$100.00 shall be assessed against any applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, one-half (1/2) of the total fees collected shall be returned.



(3) If the City of Plymouth Police Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the City Clerk.

(h) **Revocation of License.**

(1) The Council shall revoke a license or permit for any of the following reasons:

a. Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.

b. The operator or any employee of the operator, violates any provision of this Section or any rules or regulation adopted by the Council pursuant to this Section; provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty (30) days if the Council shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.

c. The operator becomes ineligible to obtain a license or permit.

d. Any cost or fee required to be paid by this Section is not paid.

e. Any intoxicating liquor or cereal malt beverage is served or consumed on the premises of the adult-oriented establishment.

(2) The Council, before revoking or suspending any license or permit, shall give the operator at least ten (10) days written notice of the charges against him, and the opportunity for a public hearing before the Common Council, as hereinafter provided.

(3) The transfer of a license or any interest in a license shall automatically and immediately revoke the license.

(4) Any operator whose license is revoked shall not be eligible to receive a license for one (1) year from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for six (6) months from the date of revocation of the license.

(i) **Physical Layout of Adult-Oriented Establishment.** Any adult-oriented establishment having available for customers, patrons or members, any booth, room or cubicle for the private viewing of any adult entertainment must comply with the following requirements:

(1) Access. Each booth, room or cubicle shall be totally accessible to and from aisles and public areas of the adult-oriented establishment and shall be unobstructed by any door, lock or other control-type devices.

(2) Construction. Every booth, room or cubicle shall meet the following construction requirements:

- a. Each booth, room or cubicle shall be separated from adjacent booths, rooms or cubicles and any non-public areas by a wall.
- b. Have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying the same.
- c. All walls shall be solid and without any openings, extended from the floor to a height of not less than six (6) feet and be light colored, non-absorbent, smooth textured and easily cleanable.
- d. The floor must be light colored, non-absorbent, smooth textured and easily cleanable.
- e. The lighting level of each booth, room or cubicle, when not in use shall be a minimum of ten (10) foot candles at all times, as measured from the floor.

(3) Occupants. Only one individual shall occupy a booth, room or cubicle at any time. No occupant of same shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth. No individual shall damage or deface any portion of the booth.

(4) Inspection. An applicant or licensee shall permit representatives of the Police Department, Fire Department, Building Inspection Department, and any other municipal code enforcement officer or authority to enter and inspect the premises of a licensed adult oriented establishment for the purpose of insuring compliance with the law, at anytime it is occupied or open for business. Any operator or employee refusing to permit such lawful entry and inspection shall, upon conviction of a violation of this section, forfeit not less than \$100 for the first violation, and \$200 for each subsequent violation within a one year period. Each entry refusal shall be a separate violation hereunder.

(j) **Responsibilities of the Operator.**

(1) Every act or omission by an employee constituting a violation of the provisions of this Section shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(2) Any act or omission of any employee constituting a violation of the provisions of this Section shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.

(3) No employees of an adult-oriented establishment shall allow any minor to loiter around or to frequent an adult-oriented establishment or to allow any minor to view adult entertainment as defined herein.

(4) The operator shall maintain the premises in a clean and sanitary manner at all times.

(5) The operator shall maintain at least ten (10) foot candles of light in the public portions of the establishment, including aisles, at all times. However, if a lesser level of illumination in the aisles shall be necessary to enable a patron to view the adult entertainment in a booth, room or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisles, provided, however, at no time shall there be less than one (1) foot candle of illumination in said aisles, as measured from the floor.

(6) The operator shall insure compliance of the establishment and its patrons with the provisions of this Section.

(7) No adult-oriented business, except for an adult motel, may remain open at any time between the hours of one o'clock (1:00) a.m. and eight o'clock (8:00) a.m. on weekdays and Saturdays, and one o'clock (1:00) a.m. and noon (12:00) p.m. on Sundays.

(k) **Administrative Review Procedure.** The City of Plymouth Municipal Ordinances and State law shall govern the administrative procedure and review regarding the granting, denial, renewal, non-renewal, revocation or suspension of a license.

(l) **Penalties and prosecution.** Any person, firm or corporation who shall violate any provision of this Section or who shall fail to obtain a license or permit as required hereunder shall forfeit not less than \$100 for each day of violation.

(m) **Severability.** The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a decision of a court of competent jurisdiction to be invalid, unlawful, or unenforceable, such decision shall apply only the specific section or portion thereof directly specified in the decision, and not affect the validity of all other provisions, sections or portions thereof of the ordinance which shall remain in full force and effect.

NOTE: For Hotel/Motel license see §3-5-3

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