

**Title 8****HEALTH AND SAFETY****Chapters:**

- 8.04** **Contagious Disease**
- 8.05** **Smoking Prohibited**
- 8.06** **Adult-Oriented Establishments**
- 8.07** **Nude Dancing in Licensed Establishments**
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**Chapter 8.04****CONTAGIOUS DISEASE\*****Sections:**

- 8.04.010 Report of cases--Statutes adopted.**
- 8.04.020 Quarantine--Statutes adopted.**
- 8.04.030 Handling foods--Statutes adopted.**

**8.04.010 Report of cases--Statutes adopted.** All the provisions and amendments thereto of Chapters 252 and 254 of the Wisconsin Statutes and Chapter HFS 145 of the Wisconsin Administrative Code are adopted and by reference made a part of this chapter. (Ord. 6865 §1, 2008; prior code §4.27).

**8.04.020 Quarantine--Statutes adopted.** All the provisions and amendments thereto of Chapter 252 of the Wisconsin Statutes are adopted and by reference made a part of this chapter. (Ord. 6865 §2, 2008; prior code §4.28).

**8.04.030 Handling foods--Statutes adopted.** All the provisions and amendments thereto of Section 252.18 of the Wisconsin Statutes are adopted and by reference made a part of this chapter. (Ord. 6865 §3, 2008; prior code §4.29).

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\* For statutory provisions regarding contagious disease, see WSA 143.04 et seq.

**Chapter 8.05**

**SMOKING PROHIBITED**

**Sections:**

- 8.05.010 Purpose.**
- 8.05.020 Definitions.**
- 8.05.030 Smoking prohibited in public places.**
- 8.05.040 Smoking prohibited in places of employment.**
- 8.05.050 Smoking prohibited in specified outdoor areas.**
- 8.05.060 Exceptions.**
- 8.05.070 Signs required.**
- 8.05.080 Enforcement.**
- 8.05.090 Additional private prohibitions.**
- 8.05.100 Other applicable laws or regulations.**
- 8.05.110 Liberal construction.**
- 8.05.120 Penalty.**
- 8.05.130 Severability.**
- 8.05.140 Effective date.**

**8.05.010 Purpose.** It is recognized that smoking of tobacco-related products is hazardous to the health of both smokers and nonsmokers who are exposed to smoking. Reliable scientific studies, including studies conducted by the Surgeon General of the United States, have shown that breathing sidestream or secondhand smoke is a significant health hazard to nonsmokers, particularly to children, elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease. Health hazards induced by breathing sidestream or secondhand smoke include lung cancer, respiratory infection, decreased respiratory function, decreased exercise tolerance, bronchoconstriction, and bronchospasm. This ordinance is adopted for the purpose of protecting the public health, safety, comfort, and general welfare of the people of the city of Eau Claire, especially recognizing the health interests of nonsmokers, who constitute a majority of the population. (Ord. 6819, 2008).

**8.05.020 Definitions.** For purposes of this chapter, the following terms have the meaning indicated:

- A. "Adult day care facility" has the meaning set forth in sec. 49.45(47)(a), Wis. Stats.
- B. "Bed and breakfast establishment" has the meaning set forth in sec. 254.61(1), Wis. Stats.
- C. "Child care facility" shall mean any licensed or certified child care facility, including, but not limited to licensed family day care or licensed group day care centers, licensed day camps, certified school-age programs, and Head Start programs.
- D. "Cigarette" has the meaning set forth in sec. 139.30(1), Wis. Stats.
- E. "Enclosed area" shall mean all space between a floor and ceiling that is enclosed on all sides by solid walls or windows (exclusive of doorways) which extend from the floor to the ceiling.
- F. "Entrance" shall mean a doorway and adjacent area which gives direct access to a building from a contiguous street, plaza, sidewalk, or parking lot.
- G. "Health care facility" has the meaning set forth in sec. 155.01(6), Wis. Stats .
- H. "Hotel and motel" have the meaning set forth in sec. 254.61(3), Wis. Stats.
- I. "Mall" shall mean an enclosed indoor area containing common areas and discrete businesses and stores primarily devoted to the retail sale of goods and services.
- J. "Medical services" has the meaning set forth in sec. 647.01(6), Wis. Stats.
- K. "Non-smoking" shall mean smoking is prohibited.

L. "Place of employment" shall mean an enclosed area controlled by the employer which employees normally frequent during the course of employment, including, but not limited to common work areas, private offices, employee lounges, restrooms, conference and meeting rooms, classrooms, health care facilities, cafeterias, stairways, hallways, vehicles, and all other enclosed facilities. A private residence is not a "place of employment" within the meaning of this ordinance.

M. "Private club" shall mean an organization, whether incorporated or not, which is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain and which only sells alcohol beverages incidental to its operation. The affairs and management of the private club are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting. The private club has established bylaws and/or a constitution to govern the club's activities. The private club has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C.A. section 501.

N. "Private residence" shall mean a premise owned, rented, or leased for temporary or permanent habitation.

O. "Public place" shall mean any enclosed area to which the public is invited or in which the public is permitted. A private residence is not a public place unless it is used as a child care facility, adult day care facility, or health care facility.

P. "Smoking" shall mean to inhale, exhale, carry, possess, or control any lighted cigarette or any lighted tobacco product in any form or in any manner.

Q. "Tobacco product" has the meaning set forth in sec. 139.75(12), Wis. Stats. (Ord. 6819, 2008).

**8.05.030 Smoking prohibited in public places.** Except as provided in s. 8.05.060, smoking in any public place shall be unlawful, including, but not limited to the following:

A. Theatres, libraries, museums, auditoriums, and convention halls which are used by or open to the public.

B. Child care facilities.

C. Adult day care facilities.

D. Retail stores.

E. Health care facilities.

F. Waiting rooms, hallways, or rooms of health care laboratories.

G. Waiting rooms, hallways, and rooms in offices of any physician, dentist, psychologist, chiropractor, optometrist, optician, or other medical service provider.

H. Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, and other multiple-unit residential facilities.

I. Restrooms, lobbies, reception areas, hallways, and other common areas which are used by or open to the public.

J. Meeting and conference rooms in which people gather for educational, business, professional, union, governmental, recreational, political, or social purposes.

K. Polling places.

L. Self-service laundry facilities.

M. Restaurants.

N. Bars, taverns, nightclubs, and cocktail lounges.

O. Common areas of malls, meaning those areas within a mall customarily accessible to patrons.

P. City facilities, meaning all city-owned and operated buildings and those portions of buildings leased and operated by the city.

Q. City transit buses and public bus shelters of the city, whether or not such bus shelter is an enclosed area.

R. Educational facilities, meaning any building used principally for educational purposes in which a school is located or a course of instruction or training program is offered that has been approved or licensed by a state agency or board.

S. Sports arenas, meaning sports pavilions, stadiums, gymnasiums, health spas, swimming pools, roller and indoor ice rinks, bowling centers, and other similar places where the public assembles to engage in physical exercise, participate in athletic event competition, or witness a sporting or other event.

T. Common areas in bed and breakfast establishments, hotels and motels, and rooms thereof that are rented to guests and designated as non-smoking rooms including lobbies, community rooms, hallways, laundry rooms, stairwells, elevators, enclosed parking facilities, pool areas, and restrooms within said facilities. (Ord. 6819, 2008).

**8.05.040 Smoking prohibited in places of employment.** A. Except as provided in s. 8.05.060, smoking in any place of employment shall be unlawful.

B. This prohibition on smoking shall be communicated to all existing employees prior to the effective date of this ordinance and to all prospective employees upon their application for employment. (Ord. 6819, 2008).

**8.05.050 Smoking prohibited in specified outdoor areas .** Smoking shall be unlawful in the following areas:

A. Within a reasonable distance of all outside entrances to, operable windows of, or ventilation systems of public places or places of employment where smoking is prohibited pursuant to ss. 8.05.030 and 8.05.040 so as to prevent smoke from entering said enclosed areas in which smoking is prohibited.

B. In the seating areas of all outdoor arenas, stadiums, and amphitheatres, as well as in the bleachers and grandstands used by spectators at sporting and other public events, including, without limitation, Carson Park football and baseball stadiums.

C. Those portions of city parks temporarily posted as no smoking areas by the department of community services at the request of a park permit holder or park facility lessee or when necessary for the public health or safety.

D. Those areas outside of city facilities that are posted as no smoking by the city manager or his or her designee. (Ord. 7202, 2016; Ord. 6819, 2008).

**8.05.060 Exceptions.** The following shall not be subject to and are exempt from the smoking prohibitions of this chapter:

A. Use of tobacco by an enrolled member of an Indian tribe, as those terms are defined in sec. 139.30(4) and (5), Wis. Stats., as part of a traditional spiritual or cultural ceremony.

B. Bed and breakfast establishments and hotel and motel rooms that are rented to guests and are designated as smoking rooms, provided that not more than twenty-five percent (25%) of the rooms rented to guests are designated as smoking rooms. This exception does not include common areas as defined in s. 8.05.030 T.

C. Private residences, except when used as a child care facility, adult day care facility, or health care facility.

D. Private clubs, except when used for a function to which the public is invited or permitted to enter. This exception shall not apply to any organization established to avoid compliance with the ordinance. (Ord. 6819, 2008).

**8.05.070 Signs required.** A. Signs prohibiting smoking shall be posted conspicuously at every entrance by the proprietor or other person in charge of each building or structure regulated by ss. 8.05.030 and 8.05.040. Signs in specified outdoor areas designated as non-smoking pursuant to s. 8.05.050 shall be placed so that the general public has reasonable notice of the prohibition. Signs shall contain a reference that regulation is by ordinance, such as "No Smoking - City Ordinance Chapter 8.05", or equivalent. A sign, provided by or approved by the health department, shall not be smaller than 8 1/2" x 5 1/2", except that signs in specified outdoor areas may be reduced in size and displayed on table top tents or menus.

B. It shall be unlawful for any person to remove, deface, or destroy any legally required "No Smoking" sign. (Ord. 6819, 2008).

**8.05.080 Enforcement.** A. The proprietor or other person in charge of premises regulated hereunder shall make reasonable efforts to prevent smoking in prohibited areas by:

1. Approaching persons who fail to voluntarily comply with this chapter and requesting that they extinguish their smoking material and refrain from smoking upon witnessing the same or upon request from any person.

2. Any other means which may be deemed appropriate by said proprietor, including refusal of service to anyone smoking in a prohibited area.

B. No proprietor or other person in charge of premises regulated by this chapter shall place, provide, or make available any ashtray or similar device used to facilitate smoking in an area where smoking is prohibited.

C. Any person who is smoking shall be refused admittance to a city transit bus.

D. Any person smoking on a city transit bus shall be required to leave such bus as ordered by the person in charge of the bus at the time or his agent, without reimbursement for any fee or charge which may have been paid for admittance to said bus.

E. Any person who desires to register a complaint under this chapter may contact the city-county health department.

F. No person shall discharge, refuse to hire, refuse to serve, or in any other manner retaliate against any employee, applicant for employment, customer, service user, business patron, or any other person because that person exercises any rights afforded by this chapter.

G. The city-county health department, building inspections division, fire department, police department, or parks & recreation department shall have the power, whenever it may deem necessary, to enter a building, structure, or property regulated under this chapter to ascertain whether the premises are in compliance with this chapter. The above-listed departments may issue compliance orders and citations pursuant to the provisions of this code. (Ord. 6819, 2008).

**8.05.090 Additional private prohibitions.** Nothing in this ordinance shall prevent a proprietor or other person in charge of any place from prohibiting smoking in any indoor or outdoor area under their control. (Ord. 6819, 2008).

**8.05.100 Other applicable laws or regulations.** This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by any other law or regulation. (Ord. 6819, 2008).

**8.05.110 Liberal construction.** This ordinance shall be liberally construed to achieve the purposes set forth in this chapter. (Ord. 6819, 2008).

**8.05.120 Penalty.** Any person who violates any provision of this chapter shall be required to forfeit not less than \$50 nor more than \$500. Each day of violation shall constitute a separate offense. (Ord. 6819, 2008).

**8.05.130 Severability.** The provisions of this chapter are severable. If any provision of this chapter is held to be invalid or unconstitutional, or if the application of any provision of this chapter to any person or circumstance is held to be invalid or unconstitutional, such holding shall not affect the other provisions or applications of this chapter which can be given effect without the invalid or unconstitutional provisions or applications. It is hereby declared to be the intent of the city council that this chapter would have been adopted had any invalid or unconstitutional provisions or applications not been included herein. (Ord. 6819, 2008).

**8.05.140 Effective date.** The provisions of this chapter shall become effective July 1, 2008 or sixty days after the date of publication of the ordinance, whichever is later. (Ord. 6819, 2008).

**Chapter 8.06**

**ADULT-ORIENTED ESTABLISHMENTS**

**Sections:**

- 8.06.010 Purpose and intent.**
- 8.06.020 Definitions.**
- 8.06.030 Regulation of adult-oriented establishments.**
- 8.06.040 Application of chapter.**
- 8.06.050 Penalty.**

**8.06.010 Purpose and intent.** The City Council finds that several adult-oriented establishments exist within the City of Eau Claire and that their nature, design and intended use is conducive to high-risk sexual behavior. Such high-risk sexual behavior has the potential of exposing persons to, among other things, the Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS). AIDS is currently determined to be irreversible and uniformly fatal. This chapter is created to provide minimum standards for such adult-oriented establishments in order to protect the general health, safety and welfare of the citizenry, by regulating those features of adult-oriented establishments which tend to facilitate and promote high-risk sexual behavior and by providing regulations which aid in the surveillance and detection of unlawful activities within such premises. (Ord. 5247 §2, 1992).

**8.06.020 Definitions.** In this chapter the following words and phrases shall have the meaning as indicated, unless the context expressly requires otherwise:

A. "Adult-oriented establishment" means, but is not limited to, adult bookstores, adult motion picture theaters and any other premises 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 videotapes, films, motion pictures, or other offered adult entertainment, whether or not such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect.

B. "Adult bookstore" means an establishment having as its stock in trade, for sale, rent, lease, inspection or viewing books, films, video cassettes, motion pictures, magazines or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specific sexual activities or specified anatomical areas, and in conjunction therewith have facilities for the presentation of adult entertainment, including adult-oriented videotapes, films, motion pictures or other offered entertainment, for observation by patrons therein.

C. "Adult motion picture theater" means an enclosed building used for presenting materials 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, for observation by patrons therein.

D. "Adult entertainment" means any exhibition of any videotape, film or motion picture 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.

E. "Door, curtain or portal partition" means a nontransparent closure device which prevents activity taking place within a booth, room or cubicle from being seen or viewed.

F. "Operator" means any person operating, conducting, maintaining or owning any adult-oriented establishment.

G. "Specified sexual activities" means simulated or actual:

1. Showing of human genitals in a state of sexual stimulation or arousal;

2. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochistic abuse, fellatio or cunnilingus;

3. Fondling or erotic touching of human genitals, pubic region, buttock or female breasts.

H. "Specified anatomical areas" means:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks and female breast below a point immediately above the top of the areola;

2. Human male genitals in a discernible turgid state, even if opaquely covered. (Ord. 5247 §2, 1992).

**8.06.030 Regulation of adult-oriented establishments.** A. Any adult-oriented establishment having available for customers, patrons or members any booth, room, or cubicle for the private viewing of any adult entertainment shall comply with all of the following requirements:

1. Each such booth, room or cubicle shall be totally accessible to and from aisles and public areas of the adult-oriented establishment, and shall be unobstructed, in total or in part, by any door, curtain or portal partition.

2. Each such booth, room or cubicle shall:

a. Be separated from all adjacent booths, rooms and cubicles and any non-public areas by a partition. All partitions shall be solid and without any openings, and shall extend from the floor to a height of not less than 6 feet. All partitions shall be light colored, non-absorbent, smooth textured and easily cleanable.

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 such booth, room or cubicle.

c. Have a floor which is light colored, non-absorbent, smooth textured and easily cleanable.

d. Be lighted in such a manner that a person in the booth, room or cubicle is reasonably visible from the adjacent public rooms or areas, but such lighting shall not be of such intensity as to prevent the viewing of videotapes, motion pictures or other offered entertainment.

3. No more than one person shall occupy any such booth, room or cubicle at any time. No occupant of any such booth, room or cubicle shall engage in any sexual activity, or cause any bodily discharge, or litter while in the booth, room or cubicle. No person shall alter, damage or deface any portion of any such booth, room or cubicle in such a manner that it no longer complies with the provisions of this chapter.

4. The premises of the adult-oriented establishment shall be maintained in a clean and sanitary manner at all times. (Ord. 5247 §2, 1992).

**8.06.040 Application of chapter.** The standards established in this chapter shall not apply to buildings, structures or premises which are lawfully operating as hotels, motels, apartment complexes or condominiums. (Ord. 5247 §2, 1992).

**8.06.050 Penalty.** A. Every act or omission by an employee constituting a violation of the provisions of this chapter 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. In such event, the operator shall be punishable under subsection B. for such act or omission in the same manner as if the operator committed the act or caused the omission.

B. Any person who violates, or knowingly allows or permits any violation of, any provision of this chapter, or any person who operates or permits the operation of any adult-oriented establishment in violation of this chapter, shall forfeit an amount not exceeding \$1,000 for each offense. Each day, or portion thereof, that a violation of this chapter exists or continues to exist shall constitute a separate offense. (Ord. 5247 §2, 1992).

**Chapter 8.07**

**NUDE DANCING IN LICENSED ESTABLISHMENTS**

**Sections:**

- 8.07.010 Authority and purpose.**
- 8.07.020 Definitions.**
- 8.07.030 Nude dancing in licensed establishments prohibited.**
- 8.07.040 Exemptions.**
- 8.07.050 Penalties.**
- 8.08.060 Severability.**

**8.07.010 Authority and purpose.** The city council of the city of Eau Claire has explicit authority under s. 125.10(1), Wis. Stats., to adopt regulations governing the sale of alcohol beverages which are in addition to those set forth in ch. 125, Wis. Stats., and has authority under its general police powers set forth in s. 62.11(5), Wis. Stats., to act for the good order of the municipality and for the health, safety and welfare of the public and may carry out its powers by regulation and suppression.

The city council recognizes it lacks authority to regulate obscenity in light of s. 66.0107(3), Wis. Stats., and does not intend by adopting this ordinance to regulate obscenity, since nudity in and of itself is not obscene, and declares its intent to enact an ordinance addressing the secondary effects of live, totally nude, non-obscene, erotic dancing in bars and taverns.

The city council finds that bars and taverns featuring live, totally nude, non-obscene, erotic dancing have in other communities tended to further the increase of criminal and other offensive activity, to disrupt the peace and order of the communities, to depreciate the value of real property, to harm the economic welfare of the communities, and to negatively affect the quality of life of the communities, and such secondary effects are detrimental to the public health, safety and general welfare of citizens.

The city council recognizes that the U.S. supreme court has held that nude dancing is expressive conduct within the outer perimeters of the first amendment to the United States constitution and therefore entitled to some limited protection under the first amendment, and the city council further recognizes that freedom of speech is among our most precious and highly protected rights, and wishes to act consistently with full protection of those rights. The city council is aware, based on the experiences of other communities, that bars and taverns in which live, totally nude, non-obscene, erotic dancing occurs may and do generate secondary effects which the city council believes are detrimental to the public health, safety and welfare of the citizens of the city of Eau Claire, namely the potential increase in prostitution and other sex-related offenses, as well as other crimes and offenses; the potential depreciation of property values in neighborhoods where bars and taverns featuring nude dancing exist; health risks associated with the spread of sexually transmitted diseases; and the potential for infiltration by organized crime for the purpose of unlawful conduct.

The city council thus desires to minimize, prevent and control these adverse effects and thereby protect the health, safety and general welfare of the citizens of the city of Eau Claire; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods; and deter the spread of urban blight.

Therefore, the city council has determined that enactment of this chapter prohibiting live, totally nude, non-obscene, erotic dancing in bars and taverns licensed to serve alcohol beverages promotes the goal of minimizing, preventing and controlling the negative, secondary effects associated with such activity. (Ord. 5953, 1999).

**8.07.020 Definitions.** For purposes of this ordinance, the term "licensed establishment" means any establishment licensed by the city council of the city of Eau Claire to sell alcohol beverages pursuant to ch. 125, Wis. Stats. The term "licensee" means the holder of a retail "Class A", "Class B", Class "B", Class "A", or "Class C" license granted by the city council of the city of Eau Claire pursuant to ch. 125, Wis. Stats. (Ord. 5953, 1999).



**8.07.030 Nude dancing in licensed establishments prohibited.** It is unlawful for any person to perform or engage in, or for any licensee, manager or agent of the licensee to permit any person, employee, entertainer or patron to perform or engage in any live act, demonstration, dance or exhibition on the premises of a licensed establishment which:

- A. Shows his or her genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering; or
- B. Shows any portion of the female breast below a point immediately above the top of the areola; or
- C. Shows the covered male genitals in a discernibly turgid state. (Ord. 5953, 1999).

**8.07.040 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. (Ord. 5953, 1999).

**8.07.050 Penalties.** Any person, partnership, or corporation who violates any of the provisions of this ordinance shall be subject to a forfeiture of not less than \$25 and not more than \$1,000 per violation. A separate offense and violation shall be deemed committed on each day on which a violation occurs or continues. In addition, violation of this ordinance constitutes sufficient grounds for suspending, revoking or non-renewing an alcohol beverage license under s. 125.12, Wis. Stats. (Ord. 5953, 1999).

**8.07.060 Severability.** If any section of this ordinance is found to be unconstitutional or otherwise invalid, the validity of the remaining sections shall not be affected. (Ord. 5953, 1999).

## **Chapter 8.08**

### **CONVERSION THERAPY PROHIBITED**

#### **Sections:**

**8.08.010 Purpose.**

**8.08.020 Definitions.**

**8.08.030 Conversion Therapy Prohibited.**

**8.08.040 Penalty.**

**8.08.010 Purpose.** A. This ordinance is adopted to protect the health, safety and welfare of the people of the City of Eau Claire, especially the physical and psychological well-being of minors, including lesbian, gay, bisexual and transgender youth, and to protect them against the exposure to serious harms caused by conversion therapy.

B. It is the well documented, prevailing opinion of the medical and psychological community that conversion therapy has not been shown to be effective and that it creates a potential risk of serious harm to those who experience it.

C. The prevailing opinion of the medical and psychological community is documented in position statements, articles and reports published by the following organizations: the American Psychological Association, the American Psychiatric Association, the American School Counselor Association, the American Academy of Pediatrics, the American Medical Association, the National Association of Social Workers, the American Counseling Association, the American Psychoanalytic Association, the American Academy of Child and Adolescent Psychiatry and the Pan American Health organization.

D. In particular, the Task Force on Appropriate Therapeutic Responses to Sexual Orientation of the American Psychological Association conducted a systematic review of peer reviewed journal literature on sexual orientation change efforts, and issued a report in 2009. The report concluded that conversion therapy has not been demonstrated to be effective and that there have been anecdotal reports of harm, including depression, suicidal thoughts or actions, and substance abuse.

E. In addition other organizations concluded that homosexuality and bisexuality are not illnesses and do not require treatment (American School Counselor Association), being transgender is not a mental disorder, conversion therapy can promote guilt and anxiety (American Academy of Pediatrics), and it may contribute to an enduring sense of stigma and self-criticism (American Psychoanalytic Association).

**8.08.020 Definitions.** In this section:

A. "Conversion therapy" means any practices or treatments offered or rendered to consumers for a fee, including psychological counseling, that seeks to change a person's sexual orientation or gender identity, including efforts to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same gender. Conversion therapy does not include counseling that provides assistance to a person undergoing gender transition, or counseling that provides acceptance, support, and understanding of a person or facilitates a person's coping, social support, and identity exploration and development, including sexual-orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices, as long as such counseling does not seek to change an individual's sexual orientation or gender identity.

B. "Person" means any natural person, individual, corporation, unincorporated association, proprietorship, firm, partnership, joint venture, joint stock association, or other entity or business organization.

**8.08.030 Conversion Therapy Prohibited.** It is unlawful for any person to practice conversion therapy with anyone under 18 years of age.

**8.08.040 Penalty.** Any person convicted of violating this section shall be subject to a forfeiture of not less than \$500 nor more than \$1,000 for each violation. For purposes of this section, each day a person is found to have practiced conversion therapy shall be considered a separate violation. (Ord. 7298, 2018).

(Pages 170--171 intentionally left blank.)

(Pages 170--171 intentionally left blank.)

**Chapter 8.16****FOOD SERVICE ESTABLISHMENTS****Sections:**

- 8.16.010 State statutes and administrative code adopted.**
- 8.16.020 Definitions.**
- 8.16.030 Licenses--Required.**
- 8.16.040 Licenses--Application.**
- 8.16.050 Health Department license--Fee.**
- 8.16.060 City license--Fee.**
- 8.16.070 License --City suspension and revocation.**
- 8.16.080 License --Health Department suspension and revocation.**
- 8.16.090 License--Display on premises.**
- 8.16.100 Food and drink examinations.**
- 8.16.110 Inspection.**
- 8.16.120 Sanitation requirements--Food service establishments.**
- 8.16.130 Temporary food service establishments.**
- 8.16.140 Food service establishment--Conformance.**
- 8.16.150 Reinstatement of permit.**
- 8.16.160 Enforcement.**
- 8.16.170 Violation--Penalty.**

**8.16.010 State statutes and administrative code adopted.** The provisions, in accordance with sec. 97 and sec. 254, Wis. Stats., and Chapters ATCP 75 and DHS 196 of the Wisconsin Administrative Code, insofar as applicable, are incorporated by reference and made a part of this section with the same force and effect as those provisions set forth verbatim therein.

**8.16.020 Definitions.** In addition to the definitions found within ATCP 75 Appendix, Chapter 1, and DHS 196 Appendix, Chapter 1, of the Wisconsin Administrative Code, the following definitions shall apply in the interpretation and the enforcement of this chapter:

- A. "DATCP" means the Wisconsin Department of Agriculture, Trade and Consumer Protection.
- B. "DHS" means the Wisconsin Department of Health Services.
- C. "Health Department" means the Eau Claire City-County Health Department.
- D. "Board of Health" means the Board of Health as established under Chapter 2.52.030.
- E. "City license" means a 'limited food service' license or a 'non-limited food service' license as issued by the City under the authority of this ordinance.
- F. "Health Department license" means a license as issued by the City on behalf of the Health Department under the authority of the DATCP and DHS state agent contractual agreements with the Board of Health, the Wisconsin Administrative Code, and adopted Wisconsin state statutes. A Health Department license is a separate license and is not a city license.
- G. "Health officer" means the director of Eau Claire City-County Health Department or that person's authorized representative.
- H. "Limited food service" means food service that is limited to individually wrapped, hermetically sealed single food servings supplied to a licensed processor.
- I. "Non-limited food service" means food service which consists of meals served that are prepared from raw, canned, diced, and packaged or frozen foods.

**8.16.030 Licenses--Required.** A. It is unlawful for any person to operate a food service establishment without first obtaining a city license and a Health Department license for that purpose as herein provided. Licenses must be obtained by all persons operating or conducting a food service establishment or other eating place commercially and for profit. Such licenses need not be obtained by churches, clubs, lodges or other organizations that serve meals or refreshments less than four times in any one-year period nor shall such license be needed for any public or private school lunchroom. The licensee shall comply with the food manager certification requirements of DHS 196 Appendix, Chapter 12, of the Wisconsin Administrative Code.

B. It is unlawful for any person to operate a temporary food service establishment as defined in ATCP 75 Appendix, Chapter 1, of the Wisconsin Administrative Code without first obtaining a city license for that purpose. Application for a temporary food service establishment license shall be made to and issued by the Health Department. The Health Department may inspect or investigate each application and the premises, together as deemed necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances, and laws applicable thereto and whether the applicant is a proper recipient of a license. All regulations, ordinances, and laws applicable thereto must be met before a license is approved by the Health Department. Operators or licensees of temporary food service establishments whom the Health Department has found to be uncooperative or habitual violators of food service establishment regulations may be denied a license to operate.

C. Each license issued under this subchapter expires on June 30 of each year, except that a license initially issued during the period beginning on April 1 and ending on June 30 expires on June 30 of the following year. (Ord. 7283 §1, 2018)

**8.16.040 Licenses--Application.** Application for licenses shall be made in writing to the city clerk on forms to be provided by the city clerk, stating the name and address of the applicant, and the address and location of the proposed food service establishment, together with such other information as may be required. The clerk shall transmit such application to the Health Department, electrical inspector, building inspector, plumbing inspector and chief of the fire department 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 law applicable thereto and whether the applicant is a proper recipient of a license. Such application shall require the recommendation of said officials and no license shall be issued without the same. All applications shall be presented to the city clerk who shall be responsible for issuing the license.

**8.16.050 Health Department license--Fee.** The Health Department license fee shall be as determined by the Board of Health.

**8.16.060 City license--Fee.** A. The city license fee shall be as stated in the City of Eau Claire Fees and Licenses Schedule.

B. The temporary food service establishment license fee shall be as stated in the City of Eau Claire Fees and Licenses Schedule.

**8.16.070 License--City suspension and revocation.** A city license may be temporarily suspended by the city for a violation of any provision of this chapter or revoked after repeated violations. Appeal from determinations of the board made under this section shall be made to the Administrative Review Board under the procedures specified in Chapter 1.06. Appeal shall stay the contested administrative determination pending decision by the Administrative Review Board.

**8.16.080 License--Health Department suspension and revocation.** A Health Department license may be temporarily suspended by the Health Department for a violation of this chapter or revoked after repeated violations. Appeal from determinations of the Health Department made under this section shall be made to the Board of Health. Appeal shall stay the contested determination pending decision by the Board of Health.

**8.16.090 License--Display on premises.** Every food service establishment or temporary food service establishment shall display at all times, in a conspicuous place, the licenses of the establishment.

**8.16.100 Food and drink examinations.** A. Samples of food, drink and other substances may be taken by the health officer as allowed by the Health Department's Food Establishment Regulation and the Health Department's Milk and Milk Product Regulation. Samples shall be analyzed for conformance with the Food Establishment Regulation and the Milk and Milk Product Regulation. Any samples taken shall conform to state statutes and the Wisconsin Administrative Code.

B. The health officer may upon written notice to the owner or person in charge, specifying with particularity the reasons therefore, place a hold order on any food which the health officer believes is in violation of this chapter. Hold orders shall be placed upon specified food items in accordance with state statutes and the Wisconsin Administrative Code. The hold order shall state that a request for hearing may be filed within ten (10) days and that if no hearing is requested, the food shall be destroyed. If a request for hearing is received, the hearing shall be held pursuant to the Board of Health appeal policy.

**8.16.110 Inspection.** A. Health inspections shall be conducted by the Health Department as required by the DATCP and DHS State Agent Contractual Agreements. Inspections may be conducted more frequently as necessary to ensure continued compliance with all rules and regulations. Reinspections shall be conducted as frequently as necessary to ensure compliance.

B. The person operating the food service establishment shall upon request of the health officer permit access to all parts of the establishment and shall permit copying any or all of the records of food purchased.

**8.16.120 Sanitation requirements--Food service establishments.** All food service establishments shall comply with all sanitation items of the Wisconsin Administrative Code and state statutes.

**8.16.130 Temporary food service establishments.** All temporary food service establishments shall comply with the requirements of the Wisconsin Administrative Code and state statutes. Only food requiring limited preparation on the premises as approved by the health officer shall be prepared and served.

**8.16.140 Food service establishment--Conformance.** No food service establishment shall be operated within the city unless it conforms to the requirements of this chapter. In case extensive alterations or repairs are required to comply with this chapter, a reasonable time, not to exceed ninety days will be allowed for full compliance; provided, that when any food service establishment fails to qualify, the health officer is authorized to suspend the permit.

**8.16.150 Reinstatement of permit.** Any food service establishment or temporary food service establishment, the license of which has been suspended, may at any time make application for the reinstatement thereof. Within one week after the receipt of a satisfactory application, accompanied by a statement signed by the applicant to the effect that the violated provision or provisions of this chapter have been conformed with, the health officer shall make a reinspection and thereafter as many additional reinspections as he may deem necessary to assure himself that the applicant is again complying with the requirements and, in case the findings indicate compliance, shall reinstate the license.

**8.16.160 Enforcement.** This chapter shall be enforced by the health officer in accordance with the interpretations contained in the DHS and DATCP State Agent Contractual Agreements, Food Establishment Regulation, Milk and Milk Product Regulation, and the Wisconsin Administrative Code and state statutes.

**8.16.170 Violation--Penalty.** Any person who violates any provision of this chapter shall forfeit not less than \$60 dollars nor more than \$500 hundred dollars, plus the costs of prosecution, including any expert testimony fees necessitated by enforcement of this section. Every day that any violation of this section continues shall be deemed a separate offense. (Ord. 6940 §1, 2010; Ord. 4111 §33, 1980; Prior code §4.74).



(Pages 176-180 left blank.)

**Chapter 8.18**

**HOTEL & MOTEL GUEST REGISTRATION**

**Sections:**

- 8.18.010 Purpose.**
- 8.18.020 Definitions.**
- 8.18.030 Regulations.**
- 8.18.040 Responsibility of guests.**
- 8.18.050 Refusal of accommodation.**
- 8.18.060 Responsibility of owner.**
- 8.18.070 Public nuisance.**
- 8.18.080 Other methods not excluded.**
- 8.18.090 Penalty.**

**8.18.010 Purpose.** The City Council finds that it is important for the health, safety, and welfare of our community and visitors to our community to control disturbance, vice, and narcotics offenses by requiring transient guests of hotels and motels to furnish identification at the time of registration and for operators to have evidence of identification available for reasonable inspection by a peace officer. The city council further finds that furnishing identification at the time of registration does not impede hotel or motel business and is not overly invasive to guest privacy. (Ord. 6864 §1, 2008).

**8.18.020 Definitions.** A. "Hotel or motel" shall mean any structure, or any portion of any structure, which is occupied, intended, or designed for occupancy by transients for dwelling, lodging, or sleeping purposes for pay and is held out as such to the public. Hotel or motel does not mean any hospital, convalescent home, or sanitarium.

B. "Operator" shall mean the person who is the proprietor of the hotel or motel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for purposes of this chapter and shall have the same duties and liabilities as his principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

C. "Guest" shall mean any transient who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license, or other agreement. (Ord. 6864 §1, 2008).

**8.18.030 Regulations.** A. A guest shall furnish to an operator a satisfactory identification as part of the registration process for the hire of the lodgings by that guest. If requested, the guest shall furnish to the operator the names of any additional occupants.

B. Satisfactory identification for legal residents of the United States shall consist of one of the following: a valid driver's license issued by the guest's state; a federal or state government or military identification card; a passport; or any other form of valid governmental identification on which the guest's photograph appears. For persons legally residing outside of the United States, valid governmental identification shall include an official passport; United States visa; INS alien registration card; or INS border crossing card.

C. The operator of the hotel shall maintain a record of the identification produced by the guest. A record shall include the name and current address of the guest; ID number; state or country of issue; date of birth; the guest's vehicle description, including vehicle license plate number; the date and time the guest registered; the room number occupied by such guest; and the signature of the guest registering. The record shall be retained by the operator for one year.

D. Every peace officer shall have access to and the right to inspect guest records kept by any hotel or motel if in furtherance of a law enforcement investigation of a possible violation of any ordinance, regulation, or law; to determine the identity and number of occupants in a time of civil emergency; or for other legitimate reasons of public safety and welfare.

E. No hotel or motel may operate as a bawdy house, disorderly house, drug house, gambling place, or criminal gang house, as those terms are defined in Wisconsin Statutes Chapter 823. (Ord. 6864 §1, 2008).

**8.18.040 Responsibility of guest.** A. No guest shall provide false or fraudulent registration information or identification to the operator of the hotel as required in s. 8.18.030 B. above.

B. No guest shall furnish to the operator of the hotel false information as to any additional occupants as required in s. 8.18.030 A. above. (Ord. 6864 §1, 2008).

**8.18.050 Refusal of accommodation.** The operator may refuse or deny the use of a room, accommodations, facilities, or other privileges of the hotel or motel to any of the following:

A. An individual who is unwilling or unable to pay for the use of a room, accommodations, facilities, or other privileges of the hotel or motel.

B. An individual who is unwilling or unable to provide satisfactory identification as required under s. 8.18.030 above.

C. An individual who is visibly intoxicated, under the influence of alcohol or other drug, and is disorderly so as to create a public nuisance.

D. An individual who the owner or operator or his agent reasonably believes is seeking to use a room, accommodations, facilities, or other privileges of the hotel or motel for an unlawful purpose.

E. An individual who the owner or operator or his agent reasonably believes is bringing in anything which may create an unreasonable danger or risk to other persons, including, but not limited to explosives or the unlawful use of firearms.

F. An individual whose use of the room, accommodations, facilities, or other privileges of the hotel or motel would result in a violation of the maximum capacity of such hotel. (Ord. 6864 §1, 2008).

**8.18.060 Responsibility of operator.** In the event the operator fails to comply with s. 8.18.030 above, the operator shall be held responsible for conduct or activity at the hotel or motel which is prohibited by sections 9.56.010, 9.56.070, or 9.56.075 of this code, or section 947.01, Wis. Stats. (Ord. 6864 §1, 2008).

**8.18.070 Public nuisance.** Violations of this chapter shall constitute a public nuisance under chapter 9.36 of this code or under Wisconsin Statutes Chapter 823. The city may maintain an action to recover damages or abate a public nuisance pursuant to chapter 9.36 of this code or Wisconsin Statutes Chapter 823. (Ord. 6864 §1, 2008).

**8.18.080 Other methods not excluded.** The provisions of this chapter are not exclusive and may be used in combination with each other or with any other section of this code or state statute applicable to this subject matter. (Ord. 6864 §1, 2008).

**8.18.090 Penalty.** Any person or corporation violating the provisions of this chapter shall, upon conviction, be fined a sum of not less than five dollars or more than five hundred dollars per day for each day of violation, if applicable, with the costs of prosecutions. (Ord. 6864 §1, 2008).

## **Chapter 8.20**

### **TREES\***

#### **Sections:**

- 8.20.010 Title.**
- 8.20.020 Purpose and necessity.**
- 8.20.030 Definitions.**
- 8.20.040 City forester.**
- 8.20.050 Permits.**
- 8.20.060 Protection.**
- 8.20.070 Public nuisance abatement.**
- 8.20.090 Tree maintenance.**
- 8.20.100 Trees and shrubs prohibited.**
- 8.20.110 Violation.**

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\* For statutory provisions defining nuisances and granting powers of abatement and penalties therefor, see WSA 146.14.

**8.20.010 Title.** This chapter shall be known and may be cited as the municipal shade tree ordinance of the city. (Ord. 3773 §1(part), 1977).

**8.20.020 Purpose and necessity.** It is the intent of this chapter to assume control of the planting, maintenance, and removal of trees and shrubs growing on public places in the city and to define public nuisances and provide for their abatement in order to provide the following:

- A. An urban environment which is in ecological harmony with the surrounding natural and agricultural environments;
- B. An urban environment which brings the positive qualities of the natural environment into the city for the benefit of its residents;
- C. Protection of city watercourses from excessive runoff and erosion;
- D. Protection to the residents of the city from the adverse effects of air pollution, dust, noise, excessive heat and glare;
- E. The conservation of energy by minimizing the impact of winter extremes;
- F. Assurance that trees and shrubs planted in the public right-of-way or in the vision triangle, as defined herein, do not interfere with the orderly and safe passage of vehicular and pedestrian traffic;
- G. Future compensation for the loss of trees and shrubs and their beneficial aspects to public improvements;
- H. Assurance that this part of the natural environment, on which man is dependent, be maintained in such a way as to insure its quality for future generations of city residents. (Ord. 3773 §1(part), 1977).

**8.20.030 Definitions.** In this chapter, unless the context clearly requires otherwise, the following words and terms shall be defined as follows:

- A. "City forester" means the qualified designated city official of the city assigned to carry out the enforcement of this chapter under the supervision of the director.
- B. "Director" means the director of community services.
- C. "Dutch elm disease" means a public nuisance more particularly defined as follows:
  - 1. Any living or standing elm tree or part thereof infected with the dutch elm disease fungus, *Ceratocystis ulmi* (Buisman), or which harbors any elm bark beetle, *Scolytus multistriatus* (Eichh), or *hylurgopinus rufipes* (Marsh);
  - 2. Any dead elm tree or part thereof, to include logs, branches, stumps, and/or firewood that is not:
    - a. Buried;
    - b. Consumed by burning;
    - c. Debarked; or
    - d. Completely enclosed with a 6 mil. polyethylene material from May 1 to October 1.
- D. "Park" means all public parks, playgrounds, waterfront, buffer areas, beaches, and leisure-time areas having individual names.
- E. "Planting strip" means the public place lying between the curb, or proposed curb, and the lot line.
- F. "Public nuisance" means any tree or shrub which is specifically designated as a public nuisance in this chapter or part of which is on public or private property which by reason of its condition interferes with the use of any public place, is infected with an injurious plant disease, or is infested with an injurious insect or other pest, and is detrimental to the construction of public improvements, or endangers the life, health, safety or welfare of the public or its property.
- G. "Public place" means that part of every street, highway, avenue, alley, between the lot line and curb and from property line to property line, and any other land owned or controlled by the city, including tree planting easements. (Ord. 7202, 2016; Ord. 4556 §1, 1985; Ord. 3773 §1(part), 1977).

**8.20.040 City forester.** A. Appointment and Qualifications. The city forester shall be appointed by the director with approval of the city manager.

B. Authority.

1. It shall be the duty of the city forester, under the supervision of the director, to enforce the provisions of this chapter. In his absence, his duties shall become the responsibility of a qualified alternate designated by the director.

2. The city forester shall have the jurisdiction, authority, control, and supervision over all trees and shrubs growing on public places, to include but not be limited to planting, removal, maintenance and protection.

3. The city forester, or his appointed representative, shall have the authority to enter upon private property, at reasonable times, to inspect trees or shrubs, or parts thereof, upon request of the property owner, upon complaint, or if he has reasonable cause to believe that a public nuisance may exist. He may take necessary samples for laboratory analysis to determine necessary or advisable tree care or removal measures to be taken at the property owner's expense, except that the cost of inspection shall be borne by the city.

4. The city forester shall have the authority to grant a permit or appropriate license under the provisions of this chapter and rules and work standards adopted hereunder. He shall supervise all work done under any permit or license issued under the provisions of this chapter and may void any permit and recommend revocation of any license if the provisions of this chapter are not complied with.

5. The city forester shall have the authority to cause a public nuisance to be abated in accordance with Section 8.20.070 of this chapter.

6. The city forester shall have the authority to formulate a master street tree plan as approved by the city council and, in connection therewith, shall do the following:

a. Make periodic inventories of trees growing on public places and maintain all records appropriate to such inventories;

b. Consider all existing and future utility and environmental factors when recommending a specific species for public places within the city;

c. With the approval of the city council, have the authority to amend and make additions to the master street tree plan at any time that circumstances make it advisable.

7. The city forester shall perform such other powers and duties as are provided by the laws, rules or regulations of the state of Wisconsin, particularly Section 27.09 of the Wisconsin Statutes.

8. The city forester shall have the authority to suspend any license for a period not to exceed five days for just cause. In addition, he may recommend to the city council that the license be suspended for a longer period of time or revoked.

9. The city forester shall make himself available to the private property owner during reasonable times to give "on site" advice concerning proper arboricultural methods and standards. In addition, he shall be available to inform and discuss these methods and standards with interest groups, the media, and educational institutions within the city.

10. The city forester may establish arboricultural specifications, with approval of the city council, setting standards for the care, maintenance and protection of trees and shrubs. (Ord. 3773 §1(part), 1977).

**8.20.050 Permits.** A. No person shall plant, apply pesticides, spray, prune, remove, cut above the ground, prune roots, alter or do surgery on any tree or shrub growing on a public place without first procuring a permit from the city forester.

B. Each permit shall specify an expiration date not to exceed a period of twelve months from date of issuance. The city forester shall be contacted when the work described on the permit is completed.

C. Each permit issued shall be on a standard form and shall contain a description of the work to be done, size, location, species and variety of tree involved, pesticides to be applied and dosages to be used.

D. The city forester shall issue the permit provided for in this section if, in his judgment, the proposed work is desirable and if the proposed method and workmanship thereof are of a satisfactory nature. In making this judgment, the forester shall consider the safety, health, and welfare of the public, location of public utilities, condition of public sidewalks and driveways and shall consider the nature of the soils, and the physiological species requirements.

E. Whenever a permit is required by a public utility or contractor, the city forester, with the approval of the director, may assign an inspector to supervise the work done under the provisions of this chapter.

F. Copies of the city's arboricultural specifications established under subsection B(10) of Section 8.20.040 shall be supplied with each permit. These specifications shall be amended by the city forester, with approval by the city council as research or new laws require.

G. If an abutting property owner requests a permit to perform tree work on a planting strip and intends to complete the work himself, he shall assume all responsibility for damage to the public's property and injury or death to the public that may be a result of this work. This liability shall be indicated on the permit.

H. For new development, the city forester or the city forester's designee may plant trees, shrubs or other plants within the boulevard as defined by section 8.28.102, or within the front yard as may be required, in accordance with the City Landscape Manual. The adjacent property owner shall be charged a fee that shall be as stated in City of Eau Claire Fees and Licenses Schedule. (Ord. 7213 §1 2016; Ord. 3773 §1(part), 1977).

**8.20.060 Protection.** Except as authorized by prior permission from the city forester, it shall be a violation of this chapter to perform or cause to be performed the following acts in any public place within the city;

A. To attach any sign, poster, handbill, electrical installation, wire, or other device or material to, around, or through a tree;

B. To permit or cause fire to burn where it may kill or injure any tree;

C. To allow any wire charged with electricity to come in contact with any tree, or to allow any toxic chemical, smoke, oil, gas, or other substance that may kill or damage any tree to come in contact with its leaves or roots;

D. To use tree spurs or climbers when working in healthy trees;

E. To remove any guard, stake, pole or other device intended for the protection or stabilization of a public tree or close or obstruct any open space around the base of a public tree designed to permit access to air, water, and fertilizer;

F. To erect, alter, repair, raze, or move any building, structure or other large object without placing suitable guards around public trees which may be injured by such operations. It shall be the responsibility of the owner thereof to repair or replace any tree injured or killed by such operations. If it is found that movement of any tree is necessary to allow for such operations, the cost of this movement shall be borne by the owner of the object;

G. To excavate any ditch, tunnel, hole, trench, or place any drive within a radius of 1.525 meters (five feet) from any tree in a public place except by those persons under written permit from the city forester or when an emergency situation exists. The city forester may require the posting of an adequate surety bond or other sufficient security by any person proposing to make any such excavation to cover the cost of replacement of any tree destroyed as the direct result of the excavation, as reasonably determined by the city forester.

Any person doing work on a tree in a public place shall be subject to the supervision and direction of the city forester. (Ord. 3773 §1(part), 1977).

**8.20.070 Public nuisance abatement.** A. No person shall permit any public nuisance to remain on any property owned or controlled by him, including public places.

B. Whenever the city forester finds and declares any tree or shrub a public nuisance, he shall notify the property owner or his agent in writing that the nuisance must be abated and the procedure required for the abatement. In the case of a public nuisance located in a public place, the city forester may summarily abate the nuisance without following the procedure provided for herein.

C. Dutch elm and other diseases. Trees, standing dead trees, and fallen timber from such trees infected with Dutch elm disease or oak wilt, infested with emerald ash borer, or other disease or pest that threatens a significant portion of the urban forest are declared a public nuisance and all reasonable efforts shall be made to remove and properly dispose of said material, as determined by and subject to the lawful orders of the city forester.

D. Procedure. Other public nuisances.

1. Notice shall be given to the property owner or his or her agent for abatement within a period of twenty days. Immediate removal shall be permitted in the event of a bona fide emergency which threatens the public safety.

2. If abatement of the nuisance has not occurred following the initial notice, a second notice shall be sent through certified mail, return receipt requested, requiring abatement within ten days.

3. If the nuisance has not been abated within this thirty-day period, the city forester may cause the tree or timber to be removed, ensure its proper disposal, or take such other or additional actions to remedy the public nuisance. The costs of this removal or other abatement may be imposed against the property in accordance with s. 66.0627, Wis. Stats., and the normal and usual special charges procedure of the city.

E. Appeal. Except in the case of immediate emergency situations, any person receiving an order from the city forester may appeal from all or any part thereof to the administrative review board under the procedures specified in ch. 1.06. Appeal shall stay the contested administrative determination pending decision by the board. (Ord. 6943, 2010; Ord. 6572 §15, 2005; Ord. 4556 §2, 1985; Ord. 3773 §1(part), 1977).

**8.20.090 Tree maintenance.** A. Specifications. Any person who intends to trim, remove, plant, perform tree surgery or apply pesticides to any tree on a public place shall be aware of and comply with the arboricultural specifications for public distribution at no cost. He shall suggest amendments to these specifications at any time that experience, new research or laws indicate improved methods.

B. Planting Strip. In consideration that the planting strip is the property of the public and under the management of the city, the responsibility for the trees planting, removal, and maintenance is hereby allocated to the following:

1. It shall be the responsibility of the city to remove and trim trees on the planting strip for the following reasons:

a. Trees, or parts thereof, that are considered by the city forester or city traffic engineer to be a public nuisance;

b. Trees, or parts thereof, that are found to be in conflict with city initiated public improvements and the construction of the same.

2. It shall be the responsibility of the property owner abutting the planting strip to remove or trim trees or parts thereof that interfere with sidewalk or driveway replacement, repair or installation, or with the movement of large objects, structures, or buildings, or the construction of the same.

3. The abutting property owner is encouraged to plant, and shall water, fertilize, and apply pesticides to trees on the planting strip.

4. If the city council determines that a threat exists or may in the future exist, either manmade or natural, to the future of the urban forest within the city, it may direct the city forester to initiate programs to insure planting or replacements of trees as may be required.

5. The city may undertake pesticide applications if the city council determines that an environmental emergency exists. If determined that extensive application of pesticides is necessary by the city, at least a seven-day notice thereof shall be given to the public in the official city newspaper.

No person shall apply pesticides contrary to federal or state laws.

C. Oak maintenance. The city council finds that oak wilt disease is a tree disease that has become a serious threat to the urban forest of the city. Because of the threat of such disease to the population of oak trees within the city, the city council establishes the tree maintenance restrictions contained in this subsection.

Between April 15 and July 31, no person shall:

1. Prune any oak tree unless the pruning is required due to one or more of the following: removal or alteration of the tree due to construction activities; to alleviate a serious hazard; or to repair a wound in the tree caused by a natural or accidental casualty.



2. Prune or wound any oak tree or allow the stump to remain following the removal of a living oak tree without immediately applying to the wound or tree stump a one-time treatment of tree paint that is designed to prevent the entry of the oak wilt pathogen into the tree or tree stump.

3. Store oak wilt infected firewood that has been debarked or dried without completely covering the wood with plastic at least 6 mils in thickness. Such covering shall be maintained and not removed between April 15 and July 1. (Ord. 5864, 1998; Ord. 3773 §1(part), 1973).

**8.20.100 Trees and shrubs prohibited.** A. No person shall plant, grow, or maintain any tree or shrub in any yard of a corner lot within twenty feet (6.096 meters) of the corner of such lot that is higher than three feet above the level of the actual or proposed curb directly opposite. This subsection shall not apply to any tree or shrub in existence on July 31, 1977.

B. The following species are declared to be public nuisances and are prohibited in any place in the city, both public or private:

1. Acer negundo -- Boxelder (planted after 1957);
2. Populus deltoides -- Cottonwood (planted after 1957);

C. The following genera and species are declared to be public nuisances and are prohibited on the planting strip:

1. Pinus -- Pines;
2. Picea -- Spruces;
3. Taxus -- Yews (includes shrubs);
4. Juniperus -- Red cedar (includes shrubs);
5. Thuja -- White cedar (includes shrubs);
6. Abies -- Firs;
7. Tsuga -- Hemlock;
8. Pseudotsuga -- Douglas fir;
9. Salix -- Willows;
10. Morus -- Mulberry;
11. Acer saccharinum -- Silver maple;
12. Gleditsia -- Thorned species of honey locust;
13. Robinia pseudo acacia -- Black locust;
14. Elaeagnus -- Olive;
15. Sorbus -- Mountain ash;
16. Juglans -- Walnut and butternut;

D. The city forester or the city forester's designee shall create, maintain, and update a list of trees, shrubs and other similar plants appropriate for planting in city parks, public lands and private property subject to site plan or general development review, and boulevards or planting strips in the public right of way that shall be entitled the "City Forester's Planting Guide". That Guide, or relevant portions of it, shall be an appendix to the City Landscape Manual, which is used by Plan Commission in its review of site plans and other development proposals. The Guide shall be kept on file by the city forester and made available to those with relevant development projects or any others who may request a copy. (Ord. 7213 §1, 2016; Ord. 3773 §1(part), 1977).

**8.20.110 Violation.** Any person who, either personally or through an agent or employee, violates any of the provisions of this chapter, shall pay a forfeiture of not less than \$50 and not more than \$500 and, in default of payment thereof, be imprisoned in the county jail not to exceed 90 days. A separate offense shall be deemed to have been committed on every day on which a violation occurs or continues. (Ord. 4556, §4, 1985; Ord. 3773 §1(part), 1977).

**Chapter 8.28**

**WEEDS, YARDS, AND LAWNS**

**Sections:**

- 8.28.010 Weed commissioner--Created.**
- 8.28.020 Weed commissioner--Appointed.**
- 8.28.030 Objectionable weeds.**
- 8.28.040 City action.**
- 8.28.050 Destruction--Published notice.**
- 8.28.060 Application--City-owned property.**
- 8.28.070 Special notices.**
- 8.28.080 Enforcement dates.**
- 8.28.100 Yards and lawns.**
- 8.28.102 Boulevard planting, care, and maintenance.**
- 8.28.105 Waivers.**
- 8.28.110 Violation and penalty.**

**8.28.010 Weed commissioner--Created.** The office of weed commissioner for the city is established pursuant to s. 66.0407 of the Wisconsin Statutes. (Ord. 4869 §1, 1988; prior code §1.16 (part)).

**8.28.020 Weed commissioner--Appointed.** Such office shall be held by the superintendent of streets and that person's designee or designees. No additional compensation shall be paid to the commissioner. (Ord. 4869 §2, 1988; prior code §1.16(a)).

**8.28.030 Objectionable weeds.** Every owner or occupant of any premises in the city shall destroy any growth of weeds on such premises. The term objectionable weeds shall mean Canada or other thistles, leafy spurge, field bindweed (commonly called creeping Jenny), Ambrosia trifida (commonly called giant ragweed), Arubuoisia artemesifolia (commonly called common ragweed), burdock, Rhus radicans, sometimes called Radicans toxicodendron, Rhus toxicodendron, Toxicodendron radicans (commonly called poison ivy), Urtica dioica (commonly called stinging nettle), dandelions or any other noxious weed. This section shall also apply to the boulevard in front of or along any premises. (Ord. 4869 §3, 1988; Ord. 3596 (part), 1976; Prior code §1.16(B)).

**8.28.040 City action.** After ten days from the publishing of a notice given as stated in this chapter, the city may destroy any weeds not so destroyed and assess the expense therefor against such property as a special tax thereon. (Prior code §1.16(C)).

**8.28.050 Destruction--Published notice.** The city manager shall, annually, on or before May 15th, cause to be published in the official newspaper a notice, once each week for two successive weeks, to the effect that objectionable weeds are to be destroyed as provided in this chapter, and that if the same are not so destroyed, action will be taken pursuant to Section 8.28.040. (Ord. 4869 §4, 1988; prior code §1.16(D), (E)).

**8.28.060 Application--City-owned property.** It shall be the duty of the weed inspector to apply the provisions of this chapter to city-owned property. (Prior code §1.16(F)).

**8.28.070 Special notices.** Special or additional notice upon any property owner or occupant may at any time be served personally or by mail requiring the destruction of weeds in which case all of the provisions of this chapter shall likewise apply. (Prior code §1.16(G)).

**8.28.080 Enforcement dates.** The provisions of this chapter shall be enforced between April 1 and October 31. (Ord. 4869 §5, 1988).

**8.28.100 Yards and lawns.** A. In this section, "yard" means an open space at grade on the same lot as a building or structure located between the main building and the adjoining lot line and/or street line. The measurement of a yard shall be the minimum horizontal distance between the lot line and the building or structure.

B. Yards shall be provided with adequate lawn, groundcover or vegetation, hedges or bushes, equal to at least ten percent of the total lot area. All areas which are not covered by vegetation shall be treated to prevent dust or the blowing or scattering of dust particles into the air. All trees, bushes or vegetation which overhang a public entrance, street or sidewalk shall be properly trimmed to avoid obstruction of the view and movements of vehicles and pedestrians.

C. Every owner or occupant of any premises having a lawn shall cut and maintain such lawn at a height not exceeding seven inches on such premises as well as the boulevard in front of or along such premises.

1. After ten days from the publishing of a notice given as stated in this subsection C. , the city may cut the lawn on any premises or boulevard and assess the expenses therefor against such property as a special tax thereon.

2. The city manager shall, annually, on or before May 15th, cause to be published in the official newspaper a notice, once each week for two successive weeks, to the effect that lawns are required to be cut and maintained as provided in this section, and that if such lawns are not cut and maintained, action will be taken pursuant to this section. At no time thereafter shall lawns exceed seven inches in height.

3. Special or additional notice upon any property or occupant may be made and served personally or by mail prior to any action taken by the city to cut the lawn on any premises or boulevard which is not in compliance with the provisions of this section.

4. This subsection shall be enforced by both the city-county health department and the weed commissioner of the city.

5. Determinations as to an owner or occupant's compliance with this subsection C. may be appealed to the administrative review board under the procedures specified in ch. 1.06. (Ord. 7275, 2018; Ord 4869 §6, 1988; Ord. 3654 §2, 1976).

**8.28.102 Boulevard planting, care, and maintenance.** A. In this section, "boulevard" means the public right-of-way area between the back of the curb or roadway edge and the sidewalk, or in the absence of a sidewalk, the area between the back of the curb or roadway edge and the property line.

B. It is the purpose and intent of the city of Eau Claire to allow property owners to plant and maintain the boulevard areas adjoining their property in a manner that enhances and improves the aesthetic appearance of city streets, avenues, and alleys as an aid to maintaining the sustainability, quality, and livability of the residential neighborhoods.

C. All boulevard areas shall be constructed as a grassy area after completion of concrete curb and gutter and maintained by the property owner in such condition thereafter. Such boulevard shall be maintained in accordance with section 8.28.100, so as not to be unsightly or unsafe.

D. Every boulevard shall be grass except for walkways and driveways, provided that alternative ground cover and landscaping may be constructed and maintained by the adjoining property owner, subject to the restrictions set forth below.

1. Plantings, including flowers, may not exceed thirty-six (36) inches in height. Plantings within thirty (30) feet of any intersection as measured from the property line or within five (5) feet of any alley or driveway approach as measured from the end of the radius may not exceed eighteen (18) inches in height.

2. The planting and growing of vegetables within the boulevard is not permitted.

3. The utilization of native grasses, plants, and forbs is permitted in accordance with the requirements of section 8.28.105.

4. Noxious and objectionable weeds as described in section 8.28.030 are not permitted.

5. Plantings must be maintained in such a way that there is no overhang or encroachment onto the sidewalk, curb, or street area.

6. The property owner shall contact "Diggers Hotline" for utility location not less than seventy-two (72) hours before digging. No planting may occur unless the city has written confirmation of said contact. The property owner shall plan plantings so as not to interfere with the utilities.

E. The use of landscaping stone, bark, rock, plastic, or other non-vegetative ground cover may not exceed 50% of the abutting property owner's boulevard area. Non-vegetative ground cover shall be of a type that will not erode, wash, or drain off of the boulevard area.

F. Lawn ornaments, figurines, fountains, and statuary are not permitted within the boulevard.

G. Trees in a location and of a species approved by the city forester in compliance with chapter 8.20 are permitted within the boulevard.

H. A boulevard or carriage walk may be constructed of concrete, brick or other suitable material within the boulevard area. The boulevard walk may not exceed six (6) feet in width nor be constructed of blacktop, asphalt, or similar material.

I. No person shall pave over or cover any boulevard with asphalt, blacktop, concrete, or similar material, except for a boulevard walk, unless an exception is granted by the city council upon a finding of demonstrated need or hardship, and that the paving or covering will not have a substantially negative impact on the aesthetic appearance of adjacent residential properties.

J. Notwithstanding the foregoing, all such boulevards remain public property, and abutting owners install and maintain plantings and improvements at their own risk. In the event the city or other public entity or public utility interferes with the boulevard plantings, it shall only restore the boulevard by the use of black dirt and grass seed or sod. In no event shall the city be liable for any damage to, disruption of, or removal of plantings or ground cover material, either direct or indirect, as a result of the city, its employees, agents, or contractors, performing any installation, maintenance, or repairs.

K. In accordance with the city of Eau Claire comprehensive plan's chapter on sustainability, and in the interest of public health and safety:

1. The city strongly encourages a "green" approach to the creation and maintenance of boulevards. This would include, but is not limited to the use of natural herbicides and pesticides, conservation of water, biodegradable materials, and runoff mitigation.

2. The city may remove or restrict any plantings or ground cover and restrict the use of herbicides and pesticides. (Ord. 6880, 2009).

**8.28.105 Waivers.** The weed commissioner may waive the provisions of this chapter in whole or in part, when in the weed commissioner's opinion, an application for waiver is in compliance with a checklist for land management utilizing native grasses and other plants, created and kept on file by the weed commissioner. In addition, a waiver shall only be granted if it shall not detract from the aesthetics of an area, shall not create a nuisance, and shall not otherwise detract from the health, safety, or welfare of the neighbors and community. Denial of such a waiver may be appealed to the Director of Community Development or that person's designee, provided that said appeal is in writing and is filed no later than 48 hours following denial by the weed commissioner. (Ord. 6675, 2006; Ord. 5144, 1991; Ord. 4869 §7, 1988).

**8.28.110 Violation and penalty.** Any owner or occupant who violates any of the provisions of this chapter shall, upon conviction, be subject to a forfeiture of not more than \$500 for each offense. Each day during which any violation continues shall be deemed to constitute a separate offense. (Ord. 4869 §8, 1988; Ord. 4495, 1984).

**Chapter 8.32****MANAGEMENT OF WASTE AND RECYCLABLES****Sections:**

- 8.32.010 Definitions.**
- 8.32.020 Business licenses.**
- 8.32.030 Vehicle permits for licensees.**
- 8.32.040 Refuse hauler.**
- 8.32.050 Responsibilities of refuse haulers and customers.**
- 8.32.060 Industrial hauler.**
- 8.32.070 Recyclable hauler.**
- 8.32.080 Construction/Demolition debris hauler.**
- 8.32.090 Hauler requirements—General application.**
- 8.32.100 Government entities.**
- 8.32.110 Yard waste and composting.**
- 8.32.120 Prohibited practices.**
- 8.32.130 Other methods not excluded.**
- 8.32.140 Violation—penalty.**

**8.32.010 Definitions.** In this chapter, unless the context clearly requires otherwise:

- A. "Ashes" means the solid residue of combustion of any type of fuel or combustible material.
- B. "Composting" means an organic mixture that consists largely of decayed matter and is used for fertilizing and conditioning land.
- C. "Construction/Demolition debris" means solid waste resulting from the construction, remodeling, repair, demolition or razing of buildings, roads and other structures, typically consisting of concrete, bricks, bituminous concrete, wood, glass, masonry, roofing, siding and plaster, alone or in combinations. It does not include hazardous waste or mixed refuse.
- D. "Construction/Demolition debris hauler" means persons, firms, or corporations licensed by the city and authorized to exclusively collect, remove and haul construction/demolition debris. A construction/demolition debris hauler may also collect, haul and remove trash and limited refuse.
- E. "Curbside and alley line refuse collection service" means the placement and collection of refuse placed adjacent to the traveled portion of the public right of way.
- F. "Customer(s)" means person(s) who contract with a hauler licensed under this chapter and whose refuse is deposited of at any licensed landfill or recycling center.
- G. "DNR" means the State of Wisconsin Department of Natural Resources.
- H. "Garbage" means all putrescible animal or vegetable matter, such as waste materials from kitchens, residences, grocery stores, butcher shops, restaurants, hotels, rooming and boarding houses, and other similar deleterious substances.
- I. "Hazardous waste" is as defined in NR 661 and 40 CFR 261.31, 261.32, and 261.33. Hazardous waste typically consists of batteries, waste paints, solvents, sealers, adhesives, petroleum products, pesticides, wood preservatives, or similar materials/wastes alone or in combination or as byproducts of combination or industrial processing.
- J. "Health department" means the Eau Claire City-County Health Department.
- K. "Health director" means the director of the Eau Claire City-County Health Department or designee.
- L. "Industrial hauler" means persons, firms, or corporations licensed by the city and authorized to collect and haul refuse exclusively from a specific industrial business for deposit at a licensed landfill or recycling center.
- M. "Mixed refuse" means garbage and trash, placed and stored together.
- N. "Prepaid bag" means an approved bag which is purchased through a refuse hauler licensed under this chapter for a price which includes the cost of its collection. Prepaid bags have a minimum thickness of two (2) mils and meet the minimum criteria of the standards of the National Sanitation Foundation.
- O. "Recyclable hauler" means any person, firm or corporation that collects and hauls recyclable materials to a transfer station or recycling center.

P. "Recyclable material(s)" or "recyclable(s)" means and includes the following:

1. Aluminum containers.
2. Foam polystyrene packaging.
3. Glass containers, not including window glass, light bulbs, white glass or ceramics.
4. Magazines or other materials printed on similar paper.
5. Newspapers or other material printed on newsprint.
6. Kraft paper.
7. Corrugated cardboard.
8. Office paper.
9. Some plastic containers, pursuant to Chapter 12.73 of the Eau Claire County Code.
10. Steel and bimetal containers.
11. Waste tires.

Q. "Refuse" means all garbage and trash including recyclable materials.

R. "Refuse hauler" means any person, firm, or corporation licensed by the city and authorized to collect refuse weekly on a fixed route from residential and non-residential facilities within the city for deposit at any licensed landfill or recycling center. A refuse hauler may also collect, remove and haul construction/demolition debris.

S. "Special collection" means the health department approved collection of refuse outside of the requirements of this chapter. Note: Special collection typically includes collections such as spring and fall clean-up initiatives, bulk item pick-ups, and recycling initiatives.

T. "Trash" means all nonputrescible solid wastes, consisting of both combustible and noncombustible wastes, such as feathers, rags, paper, boxes, glass, cans, ashes, discarded clothes or wearing apparel of any kind, or any other similar discarded object or thing, including recyclable materials.

U. "Yard waste-compostable" means grass clippings, leaves, yard and garden debris, and woodchips.

V. "Yard waste-non-compostable" means brush such as trunks, limbs, and tree branches that have not or will not be further processed into woodchips meeting the definition of compostable yard waste as in subsection U. above.

W. "Yard waste" means mixed "compostable" and "non-compostable" yard waste under subsections U. and V. above.

**8.32.020. Business licenses. A. Business licenses required.**

1. Except as otherwise provided in this chapter, no person, firm or corporation shall engage in the business of collection and hauling of construction/demolition debris, trash, recyclable material, refuse or garbage in the city without first obtaining a license to operate from the city clerk.

2. A person, firm, corporation, or partnership licensed under this chapter shall be licensed by the DNR under § NR 502.06, Wis. Adm. Code, if applicable. Proof of a current license shall be provided to the city clerk upon request.

**B. Application and Issuance.**

1. Applicant shall submit a completed application to the city clerk along with a license fee and such other information as is required or is reasonably requested by the city.

a. License applications shall be presented on forms prepared by the city clerk.

Forms shall include, but not be limited to, the name of the person, firm or corporation, address, vehicle information, use of landfill or other disposal sites, and nature of business.

b. License applications shall be referred to the health department for consideration and report to the city clerk.

c. License applications in which the applicant proposes to store or dispose of recyclable materials within the city shall be referred to the department of community development for consideration and report to the city clerk. The business location and disposal facility for recyclable materials shall be in conformance with the ordinances and regulations of the city, including zoning regulations. The disposal of recyclable materials at a disposal facility shall comply with all city ordinances and regulations and state laws and regulations.

2. Upon the city council granting a license and satisfaction of all provisions of this code, the city clerk shall provide the applicant with a printed license containing a number identical to the number of the license on record in the office of the city clerk.

C. **Fees.** The license shall be an annual license, expiring on June 30th of each year. The annual license fees shall be as cited in City of Eau Claire Schedule of Fees and Licenses.

D. **Liability insurance.** No license shall be issued until the applicant has furnished the city a certificate of insurance evidencing coverage with an insurance company licensed to do business in the State of Wisconsin, providing auto and general liability insurance limits of not less than one million dollars (\$1,000,000) for each occurrence.

E. **Compliance with laws and regulations.** It is a condition of all licenses or permits granted under this chapter that the license holder shall comply with this code, county, state or federal law, the rules and regulations of the Board of Health, and the orders of the health department relating to the collection, hauling, storage and disposal of refuse and mixed refuse, recyclable materials, trash, garbage, construction/demolition debris, yard waste, and hazardous wastes. Non-compliance with any such law, ordinance, rule, regulation or order shall constitute a basis for denial, or for the revocation or suspension of any license or permit.

F. **License or permit—Denial, Revocation or Suspension--Appeal.** Any license or permit issued may be denied, revoked or suspended by the city clerk or health director, upon administrative determination that the licensee or permit holder has failed or refused to comply with the provisions of this code, any such law, ordinance, rule, regulation or order related to the collection, hauling, storage and disposal of refuse and mixed refuse, recyclable materials, trash, garbage, construction/demolition debris, yard waste, and hazardous wastes or for non-use. Appeal from the aforesaid determination shall be made to the Administrative Review Board under the procedures specified in Chapter 1.06. Appeal shall stay the contested administrative determination pending decision by the board. No person whose license or permit has been revoked shall again be issued such license or permit under this chapter within one (1) year from the date of revocation.

**8.32.030 Vehicle permits for licensees.** A. **Permit.** Each vehicle used by a refuse hauler, recyclable hauler or industrial hauler licensee for the collecting of refuse or recyclables shall first be issued a permit. The permit term shall coincide with that of the license under which vehicle is operated. The permit shall not be transferable to another person, firm or corporation.

B. **Application.** Application for such permit shall be on a form prepared by the city clerk. The city clerk shall provide the person obtaining a permit with a permit containing the total number of vehicles on record for that licensee.

C. **Fees.** The annual permit fee for refuse hauling vehicles and for vehicles hauling recyclable materials shall be as stated in the City of Eau Claire Schedule of Fees and Licenses.

D. **Inspection.** Prior to issuance of any such permit, the vehicle shall first be inspected and approved by the health director. If a permitted vehicle breaks down or otherwise becomes mechanically inoperable, only a vehicle that has been inspected and approved by the health director may be substituted. The health department may adopt inspection criteria consistent with this code, county, state or federal law, or to further the interests of public health, safety, or welfare.

E. **Identification.** Vehicles used by the licensee shall have painted or otherwise securely affixed, on both sides of the vehicle, the name, city, state, and U.S. DOT number (if applicable) of the owner and an identification number specific to each vehicle. The letters and numerals shall contrast sharply in color with the background on which they are placed and be readily legible during daylight hours from a distance of fifty (50) feet while the vehicle is stationary.

F. **Permit exemption:** Vehicles used to transport empty refuse and recycling containers to and from customers under subsection 8.32.050 C.2. shall not be subject to a permit under this section. In the event incidental refuse or recycling is transported in said containers, the containers shall be secured as to not allow dripping, dropping, blowing, or scattering of material therefrom.

**8.32.040 Refuse hauler.** A. **Business license and permit required.** A refuse hauler shall be licensed under section 8.32.020 and vehicles shall be permitted under section 8.32.030. Businesses licensed as refuse haulers shall obtain recyclable hauler licenses under section 8.32.070; however, said businesses are not required to obtain other licenses under this chapter.

1. Number of licenses.

a. The number of refuse hauler business licenses that may be granted under this chapter shall not exceed seven (7). Such license shall be an annual license in effect from July 1st to June 30th of the following year.

b. No person, firm, corporation or partnership shall hold more than one refuse hauler license. This shall be deemed to prohibit two or more related persons, firms, corporations or

partnerships from each holding a license. Under this section, "related", when applied to persons, shall mean related to each other by blood, marriage or adoption. Under this section, "related", when applied to firms, corporations or partnerships, shall mean having the same ownership, being in the position of principal and subordinate or parent and subsidiary, or where one firm, corporation or partnership has a controlling interest in another by virtue of control of management, stock ownership, capital interest or profits interest.

c. If a refuse hauler licensee acquires, merges or combines with or otherwise obtains the refuse hauler license of another licensee, then said license shall be deemed to revert to the city and may be issued to an eligible applicant.

d. By virtue of being issued a refuse hauler license or filing an application, a licensee or applicant agrees to provide to the city, on request, all agreements, records, reports or other documents which may have a bearing on making determinations under this subsection. A failure or refusal to supply all such documents shall subject a licensee to revocation of the license or an applicant to denial of a license. If requested in writing by the licensee or applicant, some or all information contained in such agreements, records, reports or other documents shall be maintained as confidential, to the extent permitted by law, provided that such information may be divulged to the city council and such other officers or employees of the city who have a need to know the information.

2. Transfer of licenses. Refuse hauler licenses may be transferred at any time upon application to the city clerk, payment of a transfer fee as stated in the City of Eau Claire Schedule of Fees and Licenses and approval by the city council. The city clerk shall thereupon issue a new license to the transferee for the unexpired portion of the license, subject to all terms and conditions of this chapter. Vehicle permits are not transferable.

3. Abandonment of license. A refuse hauler license determined abandoned by non-use shall revert to the city and may be issued to an eligible applicant. Under this section, "abandoned" shall mean the license has not been used to collect refuse weekly on a fixed route from residential and nonresidential facilities or the licensee has no vehicle permitted for refuse collection for six (6) months or more of the licensing year. When a license reverts to the city under this section, the licensee shall not be eligible to apply for a refuse hauler license for twelve (12) months from the date the license reverted to the city.

4. Annexed areas--Operator continuance. Any person engaged in the business of refuse hauling in an area at the time it is annexed to the city, and for a period of not less than one (1) year continuously and immediately prior to, may continue to collect refuse in such area after annexation as well as in any other area subsequently annexed from the same township, provided that such person applies for and obtains a license for such purpose from the city council. Such person shall make an application within one hundred twenty (120) days after the effective date of the annexation ordinance. The city council may waive such one hundred twenty (120) day time limit in any case where it finds that extenuating and mitigating circumstances exist which reasonably justify such waiver, where it finds that the existence of such time limit results in undue hardship upon the applicant due to any such annexation, and where it finds that the spirit of this chapter will be observed. The cost of such license shall be as stated in the City of Eau Claire Schedule of Fees and Licenses, ending on June 30th of each year, and may be prorated. Such licensee shall meet all standards and comply with all conditions otherwise applicable to licensees as provided in this chapter.

#### **B. Recycling fees and reporting.**

1. Fees. No fee or charge shall be imposed by a licensee for the collection and disposal of recyclables, except that such a fee or charge can be imposed to the extent authorized by Eau Claire County acting as a responsible unit for recycling purposes pursuant to Chapter 287, Wis. Stats. The amount of such fee or charge shall not exceed the rate of special charge for recycling purposes set by Eau Claire County for entities located outside the city of Eau Claire. In this section "recyclables" shall mean those materials which owners or occupants of single-family and 2 to 4 unit residences are required to separate from other refuse pursuant to subsection 12.73.100 A. of the Eau Claire County Code.

2. Monthly reporting. A licensee providing recycling services as provided in subsection 1. above shall submit a monthly report no later than twenty one (21) days after the end of the preceding month to the Eau Claire County Department of Planning and Development containing the following information:

a. The number of dwelling units serviced during the reporting month, with at least the following categories itemized: single family homes, duplexes, triplexes, and four-plexes.

b. The weights of recyclables collected during the reporting month, with at least the following materials and respective weights collected itemized: clear glass; brown glass; green glass; tin and bi-metal; aluminum; plastic as required by section 12.73.100 of the Eau Claire County Code; corrugated cardboard; newspapers; office paper; magazines and catalogues.



**C. Charge for up-the-driveway refuse collection service.** The charge by the licensee for mandatory once-a-week up-the-driveway collection service pursuant to subsection 8.32.050 B.5.b. shall be the cost of curbside or alley line collection service plus an additional fee not to exceed \$10 per month, except properties with unusually long driveways for which a surcharge may be added.

**8.32.050 Responsibilities of refuse haulers and customers.** The following are the responsibilities of refuse haulers and customers:

**A. Mandatory separation.**

1. Recyclable materials. Customers shall separate recyclables from refuse as required under Chapter 12.73 of the Eau Claire County Code.
2. Yard waste. Customers shall separate yard waste from all other refuse.

**B. Collections.**

1. Requirement and frequency. Curbside or alley line collection or up-the-drive collection of recyclables and refuse shall be provided to customer by each licensee at least once each week.
2. Times for collection.
  - a. Collection shall occur between the hours of five (5:00) a.m. and five-thirty (5:30) p.m., except as provided in subsection 6. below.
  - b. Containers shall be placed for collection no earlier than five (5:00) p.m. on the day prior to collection and shall be removed on the day of collection.
  - c. Containers that are collected from legal or approved container storage areas shall not be subject to subsection b. above.
3. Days for collection. Such collection occurs on the days designated for the area listed:
  - a. Monday and Tuesday -- the area located south of Clairemont Avenue and east of the Chippewa River.
  - b. Tuesday and Wednesday -- the area located north of Clairemont Avenue, east of the Chippewa River and south of the Eau Claire River.
  - c. Wednesday and Thursday -- the area located west of the Chippewa River.
  - d. Thursday and Friday -- the area located east of the Chippewa River and north of the Eau Claire River.
4. Holidays. When the regular collection day falls on one of the following holidays, such regular collections may be rescheduled to another day during the week of such holiday, and the licensee shall inform each customer of the rescheduled collection day. The holidays herein referred to are New Year's Day, Memorial Day, July Fourth, Labor Day, Thanksgiving Day and Christmas Day.
5. Placement and accessibility for collection.
  - a. Curbside or alley line collection. For curbside or alley line collection, refuse and recycling containers shall be readily accessible to the collector on the day of collection. No containers shall be placed for collection in, and no collection shall occur from, the traveled portion of the public right of way. Containers shall be placed adjacent to the traveled portion of the public right of way, unless other arrangements are made under subsection b. below.
  - b. Up-the-drive collection. Upon arrangement with the licensee, refuse and recycling containers may be placed at a readily accessible location other than as listed in subsection a. above. For special assistance to the handicapped, disabled and elderly persons, collection may be made from a location outside of a building, an enclosed porch, garage or similar enclosure, but as near thereto as is reasonably practicable. No containers shall be placed for collection in, and no collection shall occur from, the traveled portion of the public right of way.
6. Additional collection services. The following types of services may be provided by a licensee in addition to the once-weekly service provided pursuant to subsection B. above:
  - a. Collection utilizing a prepaid bag. Such bag shall be placed for collection at a location which is visible to the operator of a collection vehicle from the street or alley on the route of the vehicle. Such bags shall be stored in an approved plastic or metal container, as specified in subsection C.2. below and may be placed, securely closed, outside of such container for collection. The rate charged for said collection may be agreed upon by the customer and licensee.
  - b. Special collection services.
    - i. Collection services, the terms of which may include collection at more frequent intervals, collections from inside a building, porch, garage or other enclosure, or any other conditions of collection which are not contrary to the provisions of this chapter. The rate charged for said collection may be agreed upon by the customer and licensee.

ii. The hours and days of collection stated in this chapter may be altered or extended for a reasonable time by the health director under special circumstances which in the opinion of that person are likely to affect the health, safety and welfare of persons or the community. Alterations or extensions may be city-wide or restricted to designated areas.

iii. Curbside or alley line collection of bulk items and yard waste shall be permitted on weekdays during two full weeks in April or May and two full weeks in October without compliance with subsections B.2. and B.3. above and subsection C. below, provided no charge is imposed for such collection and such collection is made in conjunction with a city-wide collection of refuse by a licensed refuse hauler. "Bulk items" means items such as furniture and other items subject to refuse hauler approval.

iv. The health department may approve special collections and transport projects for compost, refuse, or yard waste which do not affect the health, safety, and wellness of persons or the community.

**C. Garbage, trash and recycling containers.**

1. Violation. It is unlawful for the agent, owner, tenant or occupant of any premises to have, maintain, or keep any garbage and mixed refuse thereon except in containers as described in this section.

2. Mixed refuse containers. Such containers shall be composed of rigid, durable materials, have tight fitting covers, be fitted with handles, and be capable of preventing leakage or the entrance of water, insects and animals. Garbage or mixed refuse shall be stored within such container with the lid closed.

a. Refuse hauler provided containers. Refuse haulers providing containers used for curbside and alley line collection service under subsection B.5.a. above shall offer collection from a container having a capacity of forty five (45) gallons or less. If the licensed hauler also offers collection from containers larger than forty five (45) gallons, the charge for such larger containers shall be volume-based. In this section, "volume-based" means the charge for refuse collection is increased as the container size increases. All containers shall be provided to the customer without charge by the refuse hauler. The container shall display the name of the hauler in a manner which is readily identifiable from the right of way adjacent to the location of collection, and the container shall display a weather-resistant label that includes the regulations for storage and collection of refuse in conformance with guidelines established by the health department.

b. Other containers. Persons, firms or corporations with up the drive service under subsection B.5.b. above and providing their own containers shall have containers not exceeding thirty five (35) gallons in capacity. Containers having a capacity larger than thirty (35) gallons may be used by a refuse hauler for collection service under subsection B.5.a. above, provided the size and placement of such containers and the charge for such service shall be consistent with this code, or county, state or federal law.

c. Recycling containers. Recyclable materials shall be placed in containers in such a manner that complies with Chapter 12.73 of the Eau Claire County Code. Refuse haulers shall provide required recycling containers at no additional cost to customers.

3. Regulations. All containers under subsection C.2. above are subject to the following regulations:

a. Garbage or mixed refuse shall be placed in plastic bags or otherwise adequately wrapped before being placed in containers.

b. The total capacity of all provided containers and all bulk storage containers shall be sufficient to meet the needs of the occupants of the premises to which they relate; the adequacy of the size and number of containers may be determined by the health department.

c. All containers shall be easily filled, emptied and cleaned, and shall be maintained at all times in a clean and sanitary condition.

d. All containers in residential areas shall be stored behind the setback of a dwelling and shall not be stored on front porches or where they are clearly visible from any street except for the purposes of collection under subsection B above.

e. All containers for dwellings containing more than two (2) dwelling units shall be stored in a location not visible from any street, except for the purposes of collection under subsection B above.

4. Trash containers. Trash may be put in boxes, barrels or other containers which are easy to handle and load by one person onto a collection vehicle.

5. Bulk storage containers. Bulk storage containers which are used for the storage of garbage or mixed refuse for dwellings or for commercial operations, shall be watertight, constructed of metal or other durable material impervious to rodents, capable of being serviced without creating unsanitary conditions, and equipped with doors or covers that are tight-fitting. Such containers, as well as the area immediately surrounding them, shall be maintained in a clean sanitary condition by the owner of such container.

**D. Responsibilities.**

1. Refuse haulers providing containers shall monitor the condition of their containers provided to customers and replace them when they do not meet the standards set forth in this chapter.
2. If the agent, owner, tenant or occupant provides its own containers for any premises, then the agent, owner, tenant or occupant shall monitor the condition of their containers and replace them when they do not meet the standards set forth in this chapter.
3. Refuse and recyclable materials shall be placed for collection in such a manner that does not create a public nuisance.
4. A refuse hauler can refuse to perform any collection which is not in consistent with this code or county, state or federal law.
5. Refuse haulers providing collection services shall inform all customers of their refuse collection responsibilities.
6. Residential landlords shall notify tenants in writing at the beginning of a lease or rental period of the tenant's responsibilities under this chapter. The information provided shall be in compliance with guidelines established by the health department.

**8.32.060 Industrial hauler. A. Business license and permit required.** An industrial hauler shall be business licensed under section 8.32.020 and vehicles shall be permitted under section 8.32.030. Such license and permit are not transferable. An industrial hauler shall have no additional licenses under this chapter.

**B. Vehicles.** The industrial hauler license shall specify the number of vehicles which are permitted to be used by the licensee. The change in the number of permitted vehicles may be authorized, upon application, by the city council.

**C. Prohibition.** No vehicle so authorized shall be used to collect or haul refuse from any place other than the specific industrial establishment or establishments which are specified in the license.

**8.32.070 Recyclable hauler. A. Business license and permit required.** A recyclable hauler shall be business licensed under section 8.32.020 and vehicles shall be permitted under section 8.32.030. Such license and permit are not transferable.

**B. Prohibition.** Licensees under this section shall not engage in fixed-route collections or residential collections unless also licensed as a refuse hauler under section 8.32.040. Recyclable haulers under this section may engage in destination oriented hauling related to their business.

**C. Requirements.** For the hauling and disposal of recyclable materials, licensees shall adhere to and be consistent with this code, or county, state or federal law. Under this section, recyclables are limited to the recyclable materials listed in subsection 8.32.010 P.

**D. Special collections.** The health department may approve special collections and transport projects for recyclables which do not affect the health, safety and wellness of persons of the community.

**8.32.080 Construction/Demolition debris hauler. A. Business license required.** A Construction/Demolition debris hauler shall meet the licensing requirements under section 8.32.020. Licenses are not transferable.

**B. Prohibition.** Licensees under this section shall not engage in fixed-route collections, but may engage in destination oriented hauling related to their business.

**C. Limited garbage and mixed refuse collection and hauling.**

1. Licensees under this section may collect or transport refuse from a premises, such that the total accumulation of such mixed refuse or garbage on the said property does not exceed fifty five (55) gallons. If the total accumulation of such mixed refuse or garbage is greater than fifty five (55) gallons, a licensed refuse hauler, subject to the rules of this chapter, shall be contracted with to provide the collection and hauling service.

2. Mixed refuse or garbage accumulation that does not exceed fifty five (55) gallons shall be collected and transported in approved containers per subsection 8.32.050 C.2. and in such a way that the vehicle requirements of subsection 8.32.090 A. are met.

3. Licensees under this section shall transport mixed refuse or garbage by the most direct route to a transfer station or a licensed landfill.

**D. Recyclables materials.** Licensees under this section collecting and hauling recyclable materials listed in subsection 8.32.010 P. shall obtain a recyclable haulers license under section 8.32.070.

**E. Special collections.** The health department may approve special collections and transport projects for construction/demolition debris which do not affect the health, safety and wellness of persons of the community.

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**8.32.090 Hauler requirements-general application.** A person, firm or corporation subject to requirements of this chapter hauling construction demolition debris, trash, recyclable material, yard waste, refuse or garbage shall meet the following requirements:

**A. Vehicles.**

1. Trucks, trailers or other vehicles used in collection or hauling shall be of such construction that there will be no dripping, dropping, blowing, or scattering of material therefrom along streets, alleys or highways of the city, or public/private property and as not to cause a nuisance.

2. Trucks, trailers or other vehicles shall have a cover. Trees, branches, shrubs or other similar stable material may be tied or otherwise secured in lieu of providing such cover, provided the dropping or scattering of such material is thereby prevented.

3. Truck, trailer and vehicle collection openings shall be kept closed at all times, except when loading or unloading.

4. Trucks, trailers or other vehicles shall be kept off the streets of the city except for the purpose of collecting and transporting in the most direct route to a licensed landfill or other appropriate disposal site, and shall not be parked on any street, alley or public place except for the reasonable time required in the collection.

5. Except as provided in subsection 4. above, no truck, trailer or other vehicle used in collecting or hauling refuse or mixed refuse shall be parked in any alley, street or public place within the city or, unenclosed, in any place within the city within two hundred feet of any dwelling in any residential zone unless such trailer, truck or other vehicle has first been thoroughly cleaned and steamed.

6. Trucks, trailers or other vehicles shall have painted or otherwise securely affixed, on both sides of the vehicle or trailer, the name, city, state, and U.S. DOT number (if applicable) of the owner and an identification number specific to each vehicle. The letters and numerals shall contrast sharply in color with the background on which they are placed and be readily legible during daylight hours from a distance of fifty (50) feet while the vehicle is stationary.

**B. Containers.** Containers shall meet the standards set forth below and shall be replaced when they do not meet said standards.

1. All mixed refuse containers shall be composed of rigid, durable materials, have tight fitting covers, be fitted with handles, and be capable of preventing leakage or the entrance of water, insects and animals. Garbage or mixed refuse shall be stored within such container with the lid closed.

2. Bulk storage containers which are used for the storage of garbage or mixed refuse for dwellings or for commercial operations, shall be watertight, constructed of metal or other durable material impervious to rodents, capable of being serviced without creating unsanitary conditions, and equipped with doors or covers that are tight-fitting.

3. Roll-off boxes of varying size shall not contain mixed refuse or garbage and shall be constructed of durable materials and maintained in good condition. Such containers, as well as the area immediately surrounding them, shall be maintained in a clean sanitary condition by the owner of such container. Placement of roll-off boxes in the public right-of-way requires a permit and is subject to regulation under section 13.12.055 of this code.

4. Recyclable materials shall be placed in containers in such a manner that complies with Chapter 12.73 of the Eau Claire County Code.

5. The total capacity of all containers shall be sufficient to meet the needs of the occupants of the premises to which they relate.

6. All containers provided by haulers shall have a weather-resistant label affixed in a visible location which states the name of the hauler and contact information.

**C. Prohibited materials-unacceptable wastes.** The following materials shall be collected, hauled, and disposed of in accordance with applicable state and federal laws: explosive, flammable liquids, liquid paint, hazardous wastes, carcasses, stumps, significant amounts of construction/demolition debris, soil, rocks, medical and infectious waste, tires, human bodily wastes, or other similar materials.

**D. Subject to inspection.** The health department may investigate and inspect the condition and contents of any truck, trailer or vehicle, or any container. The health department may issue orders including cease and desist orders to any person, firm, or corporation in violation of this code or county, state or federal law. Such orders will remain in effect until such time as the health department has satisfactory evidence that the cited violation has been corrected.

**8.32.100 Government entities.** Government entities are exempt from business licensing and vehicle permits under this chapter. Government entities hauling refuse or recyclables shall provide to the health department an annual certificate of inspection for all vehicles used for hauling refuse or recyclables

within the city. This section does not exempt a government entity from any DNR licensing requirements under § NR 502.06, Wis. Adm. Code.

**8.32.110 Yard waste and composting. A. Disposal options.**

1. Approved brush site. Non-compostable yard waste may be taken to and disposed of at an approved brush collection site. Transportation of said waste shall comply with subsection B.2. below and section 8.32.090.

2. Business. A customer may contract with a person, firm or corporation who engages exclusively in the business of collecting and disposing of yard waste.

3. Compostable bags. Compostable yard waste shall be placed in compostable bags which are easy to handle by one person. Transportation and collections shall comply with subsection B. below and section 8.32.090.

4. Burning of yard waste.

a. In addition to all applicable local and state laws, no person, firm or corporation in the business of collecting and disposing of yard waste shall engage in the burning of yard waste within the city without obtaining the prior approval of the health department. The health director may deny any request for such approval if it is found that such burning is reasonably likely to cause excessive heat, smoke, or discharge of particulates, or would result in a public nuisance. The health director may place requirements upon any approval granted hereunder which are designed to avoid such conditions.

b. All burning shall be in compliance with Chapter 8.04 of the Eau Claire County Code.

c. All burning shall be in compliance with section 16.32.15 of this code.

**B. Collection and hauling of yard waste.**

1. A person, firm or corporation who engages exclusively in the business of collecting and disposing of yard waste is not required to be licensed under section 8.32.020, but shall adhere to the requirements of section 8.32.090.

2. Yard waste (non-compostable) shall be securely tied in bundles not greater than four (4) feet in length, thirty (30) inches in diameter, or seventy five (75) pounds in weight.

3. Yard waste (compostable) shall be placed in compostable bags which are easy to handle by one person.

4. Prohibitions and refusal of service. Except when permitted by county ordinance or by this chapter under subsection 8.32.050 B.6.b.:

a. No person, firm or corporation shall place for collection by a licensed hauler or deposit in any landfill any yard waste;

b. No licensed hauler shall collect any yard waste for deposit at any landfill, or

c. Any yard waste placed for collection not in accordance with the provisions of this section may be refused by the licensed hauler.

**C. Residential composting.** Residential composting is the creation and maintenance of compost bins on a residential property that contain only composting materials generated by the owner or occupant of said property. Materials for composting may not be transferred from one property to another.

1. Composting standards. The health department may adopt residential composting standards consistent with this code, county, state or federal law, and to further the interests of public health, safety or welfare.

2. Nuisance. No person shall engage in residential composting in such a manner as to create a nuisance under this chapter or Chapters 9.36 or 8.32 of this code.

**8.32.120 Prohibited practices. A. Seven day retention.** No garbage, mixed refuse or dead animals, excluding materials used for and following the provisions of subsection 8.32.110 C. for composting, shall be kept more than seven (7) days on any premises within the city except at an approved and properly licensed sanitary landfill site.

**B. Mandatory separation of recyclables.** Residential and non-residential facilities shall not commingle recyclables with refuse. Mandatory separation of recyclables and refuse is required under Chapter 12.73 of the Eau Claire County Code.

**C. Mandatory separation of yard waste.** Residential and non-residential facilities shall not commingle yard waste with refuse.

**D. Prohibited dumping.**

1. It is unlawful for any person to dump or otherwise dispose of any refuse upon any street, alley, highway, streams or water within the city, or at any place except as provided in this chapter.

2. No person shall deposit any refuse or yard waste on the lawn, dumpster, refuse container located in or upon commercial or residential property without the express permission of the property owner or lessee of said property.

**E. Disturbance of refuse and recycling containers.** No person shall open or disturb any refuse or recycling bag or container in a manner that would cause or contribute to litter.

**F. Prohibited materials in roll-off boxes.** It is unlawful for any person, firm or corporation to dispose of garbage or mixed refuse, hazardous materials or unacceptable waste pursuant to subsection 8.32.090 C. in roll-off boxes that do not meet the requirements of containers under subsection 8.32.090 B or any other county, state or federal laws governing disposal. Any spills or damage caused by violation of this subsection shall be responsibility of the person, firm or corporation in violation.

**G. Private dump sites.** No person shall own, operate or maintain a dumping site or landfill within the city except where the same has been approved by the DNR or other governmental agency having jurisdiction thereof, where approval is required, and such site shall be operated and maintained in a manner which does not create a nuisance.

**H. Filling real property.** No person owning or managing real property within the limits of the city shall collect refuse for the purpose of filling.

**I. Deposit of refuse.** No person owning, occupying or managing any real property within the limits of the city shall cause or permit any refuse other than that produced on the premises to be placed for collection. No person shall use any public receptacle for the disposal of refuse as a substitute for private collection.

**J. Refuse accumulation--Nuisance when.** The accumulation or deposit of refuse, trash or putrescible animal or vegetable matter, wood products, paper products, branches, metal objects, tires and other rubber products, and other similar articles or objects in or upon any lot or land or any public or private place within the city which causes blight or the air or environment to become noxious or offensive or to be in such a condition as to promote the breeding of flies, mosquitoes or other insects, or to provide a habitat or breeding place for rodents or other animals, or creates a fire hazard, or which otherwise becomes injurious to the public health, is prohibited and declared to constitute a nuisance. Refuse accumulation under this chapter may also be declared a public nuisance under Chapter 9.36 of this code.

**K. Improper storage of furniture.** No person shall place and allow to remain exposed to the elements, whether outdoors or within an unenclosed porch or similar area, any chair, sofa, bed, table or other related or similar furniture, which is not designed and intended for outdoor use and which is thereby readily susceptible to deterioration or which thereby provides a harborage for rodents. This section shall not apply to furniture which is unused and placed outside as refuse for collection and disposal.

**L. Manure storage.** Manure shall not be kept or maintained in a manner such that it creates unsanitary conditions or a nuisance. Manure shall be collected and disposed of pursuant to subsection 6.08.060.

**M. Toxic/hazardous, infectious, and medical wastes.** No person shall keep, collect, or dispose of toxic, hazardous, infectious, or medical wastes in such a manner as to violate any applicable state and federal laws governing the disposal of such wastes.

**N. Abandoned refrigerators.**

1. No person, firm or corporation as the owner, lessee or manager shall abandon, discard, store or keep in any place or premises under his control, which is accessible to children, a refrigerator, icebox, freezer cabinet or other container of a capacity of one and one-half cubic feet or more, which is no longer used for refrigeration purposes, without the attached doors, lids, covers, hinges or latches removed.

2. The provisions of subsection 1 shall apply to the removal of said articles to any other place or premises for the purpose of dumping or discarding the same.

**O. Burning of garbage or trash.**

1. No person shall burn any garbage or trash in any receptacle.

2. Under special circumstances, a license may be obtained for the operation of an incinerator which is designed and operated in accordance with all applicable governmental regulations and standards. Any such incinerator is subject to licensing and regulation as outlined in subsection 8.04.050 of the Eau Claire County Code.

**P. Ash disposal.** Ashes shall be adequately cooled and dried before being placed out for collection.

**8.32.130 Other methods not excluded.** The provisions of this chapter are not exclusive and may be used in combination with each other or with any other section of the code or state or federal law applicable to this subject matter.

**8.32.140 Violation--Penalty.** Any person, firm or corporation who violates any of the provisions of this chapter, upon conviction thereof, shall forfeit not less than \$20 nor more than \$500, exclusive of costs, for each offense, and in default of payment thereof shall be imprisoned in the county jail for not to exceed thirty days unless such forfeiture and costs are sooner paid. Every day of violation shall constitute a separate offense. (Ord. 7010, 2012)



**Chapter 8.36****INOPERATIVE MOTOR VEHICLES****Sections:****8.36.005 Purpose and intent.****8.36.010 Definitions.****8.36.020 Storage prohibited.****8.36.030 Storage--Permitted when.****8.36.040 Notice of removal.****8.36.050 Violation--Penalties.**

**8.36.005 Purpose and intent.** The purpose and intent of this chapter is to eliminate the inappropriate and unnecessary keeping and storage of inoperative motor vehicles and motor vehicle accessories on private property. The city council finds that such keeping and storage is unsightly, unhealthy and unsafe, and contrary to the health, safety and welfare of the residents of the City of Eau Claire. (Ord. 5669 §1, 1996).

**8.36.010 Definitions.** For the purpose of this chapter the following definitions shall be applicable:

A. "Inoperative motor vehicle" means any motor vehicle which satisfies one or more of the following criteria:

1. That is partially dismantled or wrecked;
2. That is not operable;
3. That is unlicensed;
4. That could not be safely or legally operated on a highway;
5. That has become a habitat for rodents, vermin or insects;
6. That in any other way constitutes a threat to the public health or safety; or
7. That has not been moved for a continuous period of more than 45 days.

B. "Motor vehicle" means any self-propelled land vehicle which can be used for towing or transporting people or materials, including but not limited to automobiles, trucks, buses, motorized campers, motorcycles, motor scooters, and tractors.

C. "Motor vehicle accessories" means any part or parts of any motor vehicle.

D. "Private property" means any real property not owned by the federal government, state, county, city school board or other public subdivisions.

E. "Removal" means the physical relocation of a motor vehicle to an authorized location. (Ord. 4799, 1988; Ord. 3115 §I(part), 1979; Prior code §4.18(1)).

**8.36.020 Storage prohibited.** A. It shall be unlawful for any person to allow, or any property owner to allow to be kept, any inoperative motor vehicle or motor vehicle accessories on any private property within the city.

B. No person, after notification to remove any inoperative motor vehicle or motor vehicle accessories from any private property has been given pursuant to this chapter, shall move the same to any other private property upon which such storage is not permitted or onto any public highway or other public property for purposes of storage. (Ord. 4799, 1988; Ord. 3115 §I(part), 1970; Prior code §4.18(2)).

**8.36.030 Storage--Permitted when.** A. This section shall not apply to any motor vehicle or motor vehicle accessories stored within an enclosed building, or on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise, in a storage place or depository maintained in a lawful place and manner, or to seasonal use vehicles such as campers, etc. Such business enterprises shall include auto junk yards, auto repair and auto body shops but shall not include automobile service stations or tire, battery and accessory sales stores.

B. This chapter shall not apply to any motor vehicle or parts car which is legally stored pursuant to s. 341.266 of the Wisconsin Statutes. However, such storage shall be subject to local zoning rules and regulations. (Ord. 4799, 1988; Ord. 3115 §1(part), 1970; Prior code §4.18(3)).

**8.36.040 Notice of removal.** Any person found in violation of the provisions of this chapter shall be given written notice by the building inspector or that person's designee requiring compliance with the provision of this chapter within 14 days of mailing of that notice. The notice shall include a description of the inoperative motor vehicle or motor vehicle accessories, the location or address of the item(s) in violation, and that failure to comply with the provisions of this chapter may result in forfeitures being assessed. Additionally, the notice shall inform the violator that removal from the specified location to another location upon which such storage is not permitted is prohibited and shall subject the person to additional penalties. Notice is not required for second and subsequent violations occurring within a one-year period of the first violation of this chapter. (Ord. 6465, 2004; Ord. 5669 §2, 1996; Ord. 4799, 1988; Ord. 3115 §1(part), 1970; Prior code §4.18(4)(b)).

**8.36.050 Violation--Penalties.** A. Any person violating the provisions of this chapter shall upon conviction forfeit not less than \$25 nor more than \$200 for a first offense within a one- year period. Failure to make payment thereof shall result in confinement in the county jail for a period not to exceed 30 days.

B. Any person convicted of a violation of this chapter shall upon conviction forfeit not less than \$100 nor more than \$300 for a second offense within a one-year period. Failure to make payment thereof shall result in confinement in the county jail for a period not to exceed 30 days.

C. Any person convicted of a violation of this chapter shall upon conviction forfeit not less than \$200 nor more than \$500 for a third offense within a one-year period. Failure to make payment thereof shall result in confinement in the county jail for a period not to exceed 30 days.

D. Each day of violation shall constitute a separate offense, and where there is more than one inoperative vehicle involved, each vehicle constitutes a separate offense. (Ord. 4799, 1988; Ord. 3115 §1(part), 1970; Prior code §4.18(5)).

## Chapter 8.40

### MISCELLANEOUS SANITARY REGULATIONS\*

#### Sections:

- 8.40.010 Health department.**
- 8.40.020 Storm sewers--Prohibited material.**
- 8.40.030 Rubbish disposal--River banks--Streets.**
- 8.40.040 Odorous premises prohibited.**

\* For statutory provisions defining nuisances and granting powers of abatement and power to impose penalties for creating nuisances, see WSA 146.14.

- 8.40.050 Privies--Cleaning.**
- 8.40.060 Food processor--Storage buildings.**
- 8.40.070 Premises inspection--Violations investigation.**
- 8.40.080 Food and drink examination authority.**
- 8.40.090 Inspection--Right of entry.**
- 8.40.100 Secondhand goods--Clean before sale.**
- 8.40.110 Dense smoke--Nuisance when.**
- 8.40.120 Burning rubber.**
- 8.40.130 Coal dust.**
- 8.40.140 Noxious gases and odors.**
- 8.40.145 Storage of firewood.**
- 8.40.150 Police enforcement.**
- 8.40.160 Violation--Penalty.**

**8.40.010 Health department.** All the provisions and amendments of Section 140.09 of the Wisconsin Statutes for 1965 are adopted and by reference made a part of this chapter. (Prior code §4.01).

**8.40.020 Storm Sewers--Prohibited material\*.** It shall be unlawful to directly or indirectly discharge or cause to be discharged the following materials into any city storm sewer:

- A. Any gasoline, benzine, naphtha, fuel oil, motor oil or any other flammable or explosive liquid, solid or gas.
- B. Lawn clippings, leaves, dirt, sweepings or other refuse.
- C. Any other deleterious substances. (Ord. 7239 §7, 2017; Ord. 6012, 2000; Ord. 4679, 1986; Prior code §4.02).

*\*For additional requirements see Title 19 entitled "Stormwater".*

**8.40.030 Rubbish disposal--River banks--Streets.** A. No person shall throw or deposit or permit to be thrown or deposited any dirt, paper or filth, the sweepings of any house, store or shop or office, or any ashes, shavings, straw, wood, manure or rubbish of any kind into the Chippewa River or on the banks thereof or into the Eau Claire River or upon the banks thereof within the city.

B. It is unlawful and all persons are prohibited from placing, putting or throwing any leaves, straw, brush, tin cans, bottles, sticks, boards, ashes or any rubbish of any kind whatever or placing or throwing any swill, brine, urine, manure or any other filthy or offensive substance, or any stinking or nauseous liquid upon or along the sidewalk, street, alley or public place in the city. (Prior code §4.03).

**8.40.040 Odorous premises prohibited.** Every person owning, operating or having the charge, care and custody of any brewery, distillery, factory, soap making, soap boiling establishments, livery stable, hog pen or place where hogs are kept, or place where hides are bought, sold or stored in the city, shall keep the same together with all barns, sheds, outhouses, hog pens, hen roosts or other buildings connected therewith, in a cleanly and good condition, and so provide that no nauseous effluvia or smell shall arise or emanate therefrom. And no nauseous or filthy matter of any kind shall be allowed to remain in or about said premises. (Prior code §4.05).

**8.40.050 Privies--Cleaning.** Water closets and privies. Every person owning or having on any premises owned or occupied by him, any privy or water closet, shall cause the same to be thoroughly cleaned at least twice in every year; on and between the first day of April and the first day of November in each year. In addition to the provisions hereinbefore contained regarding the cleansing and cleaning of privies twice in each year, the city manager or the department of health may at any time, if in their judgment the health of the city requires it, direct any person owning or having upon any premises occupied by him, any privy or water closet, to thoroughly cleanse and clean the same and cause all offensive, noxious or filthy matter to be removed therefrom. And the health department may at any time require any person so having, on any premises owned or occupied by him, any such privy or water closet, to cause the same to be disinfected with such disinfecting material as such health department

may require or direct, and all privies, water closets and the vaults connected therewith shall be kept in a clean and good condition, so that no noxious smell or effluvia shall proceed, or emanate or arise therefrom. (Prior code §4.06).

**8.40.060 Food processor--Storage buildings.** A. All buildings and rooms used for manufacturing, preparing for sale, storing, offering, or exposing for sale or selling any food, drug, condiment or drink shall be kept in a clean sanitary condition, well lighted and ventilated, free from bad odors, dust, filth, flies and other contamination, or other unclean, unhealthful, unsanitary conditions.

B. All foods manufactured and prepared for sale during the process of its manufacture or its preparation for sale, shall be securely protected from filth, flies, dust or other contamination, or other unclean, unhealthful or unsanitary conditions. All foods stored or offered or exposed for sale, sold or delivered, shall be securely protected from filth, flies, dust or other contamination, or other unhealthy, or unsanitary conditions.

C. Any food, drug, condiment or drink manufactured, offered or exposed for sale or sold, stored or delivered contrary to the provisions of this chapter shall be subject to confiscation and may be seized and turned over to the proper authorities of the city, who may destroy the same. (Prior code §4.08).

**8.40.070 Premises inspection--Violations investigation.** It shall be the duty of the health department and of every policeman of the city to, at all reasonable times, examine slaughterhouses, packing houses, meat markets, butcher shops, breweries, distilleries, factories, soap boiling establishments, livery stables, privies and water closets in the city, and to inquire into any evasions or infractions or violations of any of the provisions of this chapter, and such officers shall have and be permitted at all reasonable hours of the day free access upon the premises of all such places named in this chapter, for the purpose of inspecting and examining the same. No person shall interfere with, hinder, delay, molest or prevent the health department or any policeman in the discharge of his duty, as prescribed by this chapter. (Prior code §4.07).

**8.40.080 Food and drink examination authority.** It shall be the duty of the health department, in addition to its other duties, to see that all the provisions of this chapter are complied with, and for that purpose may at frequent intervals inspect and ascertain the sanitary conditions of each place visited. Any of its officers or employees may enter any building, room or basement or any other place, in which there is, or they have good reason to believe that any food, drink, condiment or drug is manufactured, stored or offered for sale or sold, to inspect the same and inspect any food condiment or drink, prepared, stored, exposed, offered for sale or having in possession with intentions to sell or be sold, the quality of the ingredients used, the conditions of the apparatus, show cases, shelves and containers used in preparing, displaying, storing, shipping and delivering the same. The health department, its inspectors or agents shall have authority to stop and inspect any wagon, cart or vehicle used in delivering any of the above named foods. A sufficient number of samples shall upon request of the health director be delivered to said department free of charge for purposes of examination. (Prior code §4.09).

**8.40.090 Inspection--Right of entry.** No person shall obstruct or hinder the city health department or any of its inspectors or agents in the performance of their duties by refusing entrance to any place they are authorized to enter. (Prior code §4.10).

**8.40.100 Secondhand goods--Clean before sale.** No sale of cast-off or secondhand clothing, or wearing apparel of any kind, or secondhand bedding, household goods, furniture or articles shall hereafter be permitted to be sold at so called "Rummage Sales" within the city, without such castoff

clothing and wearing apparel and secondhand bedding, household goods, furniture and other similar articles first having been thoroughly fumigated, disinfected, renovated and cleansed under the direction and superintendency of the board of health of the city, and subsequently thereto examined and inspected by the board. (Prior code §4.11).

**8.40.110 Dense smoke--Nuisance when.** The emission of dense smoke, soot or cinders from the smokestack of any locomotive or from any chimney or smokestack is declared a nuisance and the same is prohibited. Smoke shall be deemed dense under the terms of this chapter when it contains soot or other substance in sufficient quantities to permit the deposit of such soot or other substances on any surface within the limits of the city. In these sections of the city zoned and districted as industrial zones the emission of dense smoke for a period of six minutes in any one hour during which the firebox is being cleaned out or a new fire being built therein is excepted from the provisions of this section. (Prior code §4.12).

**8.40.120 Burning rubber.** The burning or use of rubber tires, rubber products, tar, pitch, tar paper or other refuse for fuel, or otherwise, in any form giving off or producing dense smoke or offensive odors is prohibited. (Prior code §4.13).

**8.40.130 Coal dust.** No person shall for a period longer than forty-eight hours store coal in an open and exposed place to the wind unless such coal receives or has previously received treatment by oil, or by other equivalent process that will to an equal degree reduce the dust therefrom. This section shall not apply to industrial zones unless the location of such coal is in such close proximity to a dwelling(s) or other occupied structure as to be injurious to health or property or to create a nuisance. (Prior code §4.14).

**8.40.140 Noxious gases and odors.** Industries necessarily creating noxious gases or odors, upon order of the board of health, with not less than thirty days' written notice, shall whenever possible provide such purification or deodorant methods for the treatment of noxious gases as shall abate the condition or provide such ventilating equipment and diffusing stacks as shall discharge such noxious gases into the upper air at a height which will avoid nuisance, and all such structures and the operation and maintenance thereof shall be subject to the approval of the board of health. (Prior code §4.15).

**8.40.145 Storage of firewood.** Firewood may be stored in any yard other than the front yard or corner sideyard, provided that it is stored in a neat, orderly, and secure stack not exceeding 6 feet in height, and the wood stack is not infested with rodents. (Ord. 6483 §1, 2004).

**8.40.150 Police enforcement.** It shall be the duty of every police officer and sanitary inspector to see that Sections 8.40.110 through 8.40.140 inclusive are enforced. (Prior code §4.16).

**8.40.160 Violation--Penalty.** Any person, firm or corporation violating the provisions of this chapter shall upon conviction be fined not less than five dollars, nor more than one hundred dollars, for each and every offense, together with the cost of prosecution and upon failure to pay the same shall be confined in the county jail not more than thirty days unless such fine and costs are sooner paid. Each day of violation shall constitute a separate offense. (Prior code §4.17).

**CHAPTER 8.44**

**UNDERGROUND UTILITIES REQUIRED**

**Sections:**

**8.44.010 Purpose.**

**8.44.020 Underground adaptation required.**

**8.44.030 Area affected.**

**8.44.040 Penalty.**

**8.44.010 Purpose.** The City Council does hereby find and determine that the existence of utility poles, overhead wires, and related above-ground appurtenances located within the public street right of way constitute an interference with the public governmental use of the right of way and are unattractive aesthetically and the appearance thereof detracts from and is at variance with the appearance of the neighborhoods within which they are located; and that in the interest of the public health, safety and welfare, wherever possible said utilities should be placed underground. Where said utilities are placed underground, those premises receiving service from them should be adapted to the new underground service, thereby permitting the removal of such above-ground facilities. (Ord. 4342, 1983).

**8.44.020 Underground adaptation required.** Whenever the public electric utility serving property within the area described under section 8.44.030 hereof places its electric distribution lines underground, then and at that time the owner or occupant of each said property shall cause the electrical facilities and appurtenances upon and within each property to be so installed or modified as to be compatible with, and to permit the rendering of electric service through said underground electric distribution lines, so that poles, overhead wires and related above-ground appurtenances may be removed by said public electric utility from such area. (Ord. 4342, 1983).

**8.44.030 Area affected.** The area within which the provisions of section 8.44.020 hereof shall apply shall be as follows:

Bounded on the north by the Eau Claire River, on the south by the north line of East Lake Street, on the east by the west line of Barstow Street, and on the west by the Chippewa River. (Ord. 4342, 1983).

**8.44.040 Penalty.** Any person violating any of the provisions of this chapter shall, upon conviction thereof, forfeit not less than ten dollars nor more than one hundred dollars, together with the costs of prosecution, for each offense. For any violation existing longer than 30 days, the forfeiture for each day shall be not less than 50 dollars nor more than 200 dollars. In default of payment thereof, the violator shall be committed to the Eau Claire County Jail for a period not exceeding thirty days. Each day such violation continues shall constitute a separate offense. (Ord. 4342, 1983).