

ORDINANCE #15-01  
(Formerly Ordinance #14-19)

REPEALING AND RECREATING CHAPTER 106 DE PERE MUNICIPAL CODE  
REGARDING LICENSES AND PERMITS  
AND RELATED ORDINANCE REVISIONS

THE COMMON COUNCIL OF THE CITY OF DE PERE, WISCONSIN, DO ORDAIN  
AS FOLLOWS:

Section 1. Chapter 106, Licenses and Permits, is hereby repealed in its entirety and recreated as follows:

**106-1 License or permit required**

No person shall engage in any trade, profession, business or privilege in the City of De Pere for which a license or permit is required by any provision of this Code without first obtaining such license or permit from the City in the manner provided in this chapter, unless some other provision of this Code provides specifically otherwise.

**106-2 Application Process**

- (a) *Application*  
Unless otherwise provided, application for a license or permit shall be made in writing to the responsible City department or officer, upon forms provided by the City. All application forms shall be fully completed and signed by the applicant, and all permit fees, if any, shall be paid before the application is processed.
- (b) *License/Permit Fee*  
All applications for any license or permit shall be accompanied by the proper license or permit fee as established by resolution of the common council. No license or permit fee shall be refundable unless the license/permit is denied.
- (c) *Background Check*  
All applications for any license or permit which requires that a background check be run on the applicant shall be accompanied by a background check processing fee as determined by resolution of the common council. An applicant presenting multiple applications for license/permits at one time shall be subject to one processing fee as established by resolution of the common council. The background check processing fee shall be non-refundable.
- (d) *Delinquent Debts Owed to City*
  - (1) No license other than dog or cat licenses authorized or required by this Code shall be granted or issued:

- A. To any person who owes any unpaid, delinquent personal property tax, room tax, special assessment, municipal court forfeiture, charges for false fire or burglar alarms or abandoned 9-1-1 calls, parking ticket, sewer or water bill, ambulance bill, hazardous material spill response charge, or inspection or re-inspection fee.
- B. For any premises for which sewer or water bills, room taxes, special assessments or special charges for current services owed to the City are delinquent and unpaid.
- C. For any premises containing personal property upon which a personal property tax owed to the City by the applicant was assessed and the personal property tax remains unpaid and delinquent.

No license shall be denied if a payment becomes delinquent after fully completed and properly executed application, together with any required application fee, has been filed with the appropriate City official.

- (2) This subsection does not apply to a person whose personal liability for payment of a delinquent tax or other charge has been discharged by order of a U.S. Bankruptcy Court or other court of competent jurisdiction or to a bankrupt or a bankrupt's premises covered by an automatic stay issued by a U.S. Bankruptcy Court or other court of competent jurisdiction while the automatic stay is in effect.

(e) *Bond and Insurance*

All required bonds shall be executed by a surety company authorized to do business in the state of Wisconsin. Where policies of insurance are required, such policies shall be subject to approval of the city attorney. Satisfactory evidence of coverage by bond or insurance shall be filed with the city before the license or permit is issued.

(f) *Approval or Denial of License or Permit*

- (1) Where the approval of any city or state officer is required prior to the issuance of any license or permit, proof of such approval must be presented to the issuing City official before any license or permit is issued.
- (2) No license or permit shall be approved if it appears that the conduct of the activity for which a license or permit is required will be contrary to the law, if it appears the applicant does not possess the necessary qualifications or requirements for the license, or if it appears issuance of the license or permit would be contrary to the public health, safety or welfare.

(g) *Appeal/Review of License or Permit Denial*

- (1) Unless provided otherwise in this Code, if a license or permit application is denied, the applicant shall be informed of such decision, in writing, within 10 days after the determination is made. No grant, denial, suspension or revocation of an alcohol

license under Wis. Stats. § 125.12(1) or Chapter 7 of this Code is subject to review hereunder.

- (2) The denied applicant may request a hearing in writing on the determination to deny the license or permit application. The appeal shall state the reasons the applicant believes the decision to deny the license or permit to be in error. Failure to do so shall result in an automatic affirmance of the denial without further action by the issuing City official or the Finance/Personnel committee. The hearing shall be held before the City's Finance/Personnel Committee and the hearing shall substantially comply with the provisions of Wis. Stats. §68.11(2). Within twenty (20) days after the hearing, the Finance/Personnel Committee shall issue a written decision which shall affirm, reverse or modify the determination of the City official. This decision shall be a final decision. Judicial review of such decision shall be as provided in Wis. Stats. §68.13.

(h) *License and Permit Terms and Renewal*

- (1) Unless otherwise provided by this Code, the term of the license year shall commence on July 1 and end on June 30 of each year, unless the license period is for less than one year, in which case the term of the license shall commence with the date of issuance.
- (2) License or permit renewals shall be issued in the same manner and be subject to the same conditions as the original license or permit except that a determination to not renew a license shall be subject to paragraph (1) of this chapter.
- (3) Permits shall be issued for the term set forth in the permit and shall not renew.

(i) *Display of License or Permit*

Unless otherwise provided in this Code, all licenses and permits shall be displayed on the premise or vehicle for which it is issued. If a license or permit is required to be carried on the person, it shall be displayed to any law enforcement officer or other person authorized by ordinance to request the same.

(j) *Transfer*

No license or permit shall be transferable or assignable unless otherwise provided in this Code.

(k) *Compliance with Laws and Regulations*

An express condition of holding a license or permit is compliance with all City, State and Federal rules, regulations, laws and ordinances.

(l) *Suspension or Revocation of License*

- (1) Except as otherwise provided by state law or this Code, any license issued by the city may be revoked or suspended for a violation by the licensee of any ordinance, rule, regulation adopted by the city or any state law violation whenever such violation is substantially related to the licensed activity.

- (2) Requests for suspension or revocation of a license shall be made by the department head of the department issuing such license to the Common Council. The Common Council shall determine whether to hold a hearing regarding the suspension or revocation of such license, whether to send a warning letter to the licensee, or that no action be taken on such license.
- (3) The hearing on whether to suspend or revoke any license shall be held before the Common Council and the hearing shall substantially comply with the provisions of Wis. Stats. §68.11. Judicial review of the decision of the Common Council shall be governed by Wis. Stats. §68.13.
- (4) A license suspension shall be for not less than 10 days and not more than 90 days. A license revocation shall be for twelve months during which time the licensee shall be ineligible to apply for reinstatement of a license that has been revoked.

### **106-3 Licenses required under other Chapters of this Code**

The following licenses are required under the Code Section noted:

- (a) *Alcohol Beverage and Operator Licenses – Chapter 7;*
- (b) *Concrete Worker’s License - §22-10;*
- (c) *Dog and Cat License - §86-1;*
- (d) *Mobile Home Park - §90-4;*
- (e) *Sign Contractor - §98-4;*
- (f) *Auto Salvage Yard - §110-1;*
- (g) *Junk Collector/Dealer - §110-1;*
- (h) *Shows and Amusement, Carnival - §110-2;*
- (i) *Public Dance - §110-3;*
- (j) *Cigarette/Tobacco - §110-4;*
- (k) *Sexually Oriented Adult Entertainment Establishment - §110-5;*
- (l) *Weights and Measures - §110-7;*
- (m) *Pawnbrokers, Secondhand Article Dealers and Secondhand Jewelry Dealers - §110-8;*
- (n) *Taxicabs – Chapter 118;*
- (o) *Permits and licenses required under the Wisconsin Food Code (Wis. Stats. Chs. 97, 101 and 254 and Administrative Codes adopted thereunder) are issued by the State of Wisconsin through June 30, 2015.*

### **106-4 Reserved**

### **106-5 Permits required under other Chapters of this Code**

The following permits are required under the Code Section noted:

- (a) *Special Permit allowing alcohol beverages in the streets - §7-9;*
- (b) *Floodplain Land Use - §16-7(a)(2);*

- (c) *Block Party* - §22-8(b);
- (d) *Building Materials in Street* - §22-9;
- (e) *Excavation* - §22-11;
- (f) *Curb Cut* - §22-15;
- (g) *Sump pump installation* - §26-6(b);
- (h) *Private well* - §26-12;
- (i) *Water meter installation* - §26-14(c);
- (j) *Post-construction runoff* - §28-8
- (k) *Pertaining to Park Use*
  - *Goose patrol* – §30-2(d)(3)
  - *Authorizing possession of intoxicating liquor in park* - §30-2(h);
  - *Park private vendor* - §30-2(i);
  - *Boat ramp* - §30-4(h);
  - *Use of park by private and public groups* - §30-6;
- (l) *Pertaining to Public Trees*
  - *Planting, removal, maintenance and protection of public trees* - §30-8(g);
  - *Trim public trees* - §30-9(c);
  - *Preventing access of air and water to public trees* - §30 – 9(e);
  - *Planting trees on streets* - §30-11(a);
- (m) *Soil Erosion Control* - §42-8;
- (n) *Building* – Chapter 54;
- (o) *Moving or Razing Structure* - §54-8;
- (p) *HVAC* - §54-10;
- (q) *Electrical* – Chapter 62;
- (r) *Plumbing* – Chapter 66;
- (s) *Chicken Keeping* - §86-5;
- (t) *Mobile Home off Mobile Home Park* - §90-3;
- (u) *Mobile Home Parking* - §90-10;
- (v) *Sign* - §98-4;
- (w) *Solicitor/Direct Seller* – Chapter 114;
- (x) *Room Tax* - §134-1;
- (y) *Parade* - §138-2

### **106-6 Permits Required Under this Chapter**

- (a) *Encroachments/Obstructions upon Right of Way and Other City Property (Non-Park)*
  - (1) **General Requirements.** Permission for encroachment or obstruction of City right of way or other non-park City owned property, other than as allowed or permitted under other sections of this Code, shall be by revocable occupancy permit as provided in this section.
    - A. Request for a revocable occupancy permit shall be in writing and made to the Director of Planning and Economic Development (Planning Director). The request shall include name, address and contact information of the requestor.

- B. Each request shall describe the location of the encroachment/obstruction, the purpose of the encroachment/obstruction and the length of time it is expected to last. A map (scaled preferred) shall accompany the request.
  - C. Each requestor shall provide proof of liability insurance in such limits as approved by the City Attorney, which policy of insurance shall name the City of De Pere as an additional insured thereunder for purposes of the activity allowed in the permit.
  - D. Revocable occupancy permits for encroachments/obstructions on right of way shall comply with Wis. Stats. §66.0425.
  - E. Each request shall be reviewed by the Planning Director for compliance with State, Federal and local transportation and accessibility requirements and for a determination of safety concerns associated with the encroachment or obstruction. If the Planning Director determines the request meets those requirements and all other requirements of this section, the City Attorney shall draft the revocable occupancy permit, including such conditions as may be recommended by the Planning Director or such conditions as may be required under this Code or State or Federal laws. Following execution of the permit by the applicant, it shall be executed by the Planning Director on behalf of the City.
  - F. Permits may be administratively renewed by the issuing party if all permit requirements continue to be met.
- (2) Specific Permits.
- A. *Newsboxes.* In addition to meeting the requirements of (a)(1) above, requests for placement of newboxes upon City right of way or other City property (non-park) shall meet the following:
    - i. Adequate pedestrian passageway shall be maintained.
    - ii. No chaining, bolting, or other means shall be used to attach a newsbox to any property within public right-of-way without prior express written permission of the property owner.
    - iii. News boxes shall be maintained in a safe, neat, and clean condition at all times. Any graffiti placed upon such boxes shall be removed within 24 hours of notice to permit holder.
    - iv. The news box shall be no larger than 52 inches x 34 inches x 20 inches (height x width x depth).

- v. Minimum adequate open space shall be provided as follows:
    - a. At least two feet behind any curb face;
    - b. At least three feet behind any curb face at any place where parking is prohibited or stopping, standing or parking is restricted;
    - c. At least five feet from any driveway, fire hydrant, emergency facility or bus shelter opening;
    - d. At least 15 feet between newsboxes and police or fire station driveway, railroad track and marked or unmarked crosswalk.
  - v. No news box shall remain empty of current publications for more than 14 consecutive days.
  - vi. Allowable advertising, other than the name of the publication, shall appear only once, shall be on the side of the news box facing away from the street, and shall not exceed 18 inches x 18 inches.
- B. *Sidewalk café Permit.* In addition to the requirements of (a)(1) above, requests for a café permit for use of City right of way or other City property (non-park) shall meet the following:
- i. Definitions:
    - a. "Sidewalk cafe" shall mean any group of tables, chairs, benches, or partitions maintained upon the public sidewalk for use directly in front of an establishment with a valid restaurant license.
    - b. "Class B" license shall mean such alcohol beverage license as is issued by the common council allowing the sale and consumption of alcohol beverages on a licensed premises.
  - ii. Sidewalk cafe permit:
    - a. Any sidewalk café permit applicant seeking to serve alcohol beverages in the sidewalk café shall make separate application to amend the applicant's "Class B" license to conform with the location of the sidewalk cafe.
    - b. All tables, chairs and other materials and equipment placed out on the sidewalk for operation of the sidewalk cafe shall be removed from the site before the close of business and not returned to the sidewalk area until the usual and customary opening of the sidewalk cafe each day.
- C. *Construction staging purposes.* The Director of Public Works or, in his/her absence, the City Engineer (collectively Public Works Director), may issue a revocable occupancy permit as meets the requirements of this section allowing for the temporary use of City right of way or other City property for construction

staging purposes. The Public Works Director may set a reasonable fee for the privilege of such permit.

(b) *Encroachments/Obstruction upon Park Property.*

(1) Permission for encroachment or obstruction of City owned park property, other than as allowed or permitted under other sections of this Code, shall be by revocable occupancy permit as provided in this section.

A. Request for a revocable occupancy permit shall be in writing and made to the Parks, Recreation & Forestry (Park Director). The request shall include name, address and contact information of the requestor.

B. Each request shall describe the location of the encroachment/obstruction, the purpose of the encroachment/obstruction and the length of time it is expected to last. A map (scaled preferred) shall accompany the request.

C. Each requestor shall provide proof of liability insurance in such limits as approved by the City Attorney, which policy of insurance shall name the City of De Pere as an additional insured thereunder for purposes of the activity allowed in the permit.

D. Each request shall be reviewed by the Park Director for compliance with State, Federal and local transportation and accessibility requirements and for a determination of safety concerns associated with the encroachment or obstruction. If the Park Director determines the request meets those requirements and all other requirements of this section, the City Attorney shall draft the revocable occupancy permit, including such conditions as may be recommended by the Park Director or such conditions as may be required under this Code or State or Federal laws. Following execution of the permit by the applicant, it shall be executed by the Park Director on behalf of the City.

E. Permits may be administratively renewed by the issuing party if all permit requirements continue to be met.

(c) *Appeal.* In the event an application for a revocable occupancy permit under this section is disapproved, the applicant shall be informed in writing within ten (10) days of application of the reasons for disapproval. The applicant or any interested party may appeal the disapproval decision to the Board of Public Works in the case of disapproval issued by the Planning Director or the Public Works Director, or may appeal the Park Director's decision to the Board of Park Commissioners. Any such appeal shall be made within ten (10) days of notice of disapproval. The appeal must be in writing, and must state the reasons why the applicant believes the decision to be in error. Failure to state the reasons why the decision is in error shall result in automatic approval of the denial without further action.



Within twenty (20) days after receipt of the appeal, the proper Board shall hold a hearing which substantially complies with the conduct hearing requirements of Wis. Stats. §68.11(2). Within twenty (20) days after the hearing, the Board shall issue a written decision which shall affirm, reverse or modify the determination. This decision shall be a final decision. Judicial review of such decision shall be as provided in Wis. Stats. §68.13.

(d) *Fee.* The fee for revocable occupancy permits issued under this section, other than for construction staging purposes, shall be as determined by resolution of the common council.

(e) *Fireworks and Pyrotechnics Display*

(1) Pursuant to Wis. Stats. §167.20, the Mayor delegates to the Fire Chief or the Chief's designee, the authority to issue permits for the use within the City of those classes of fireworks or pyrotechnics for display within the City. No permit shall be issued to a person under the age of 18.

(2) No person shall possess or use fireworks or pyrotechnics for which a permit is required without such permit.

(3) Application for a permit shall be to the Fire Chief not less than 15 days in advance of the date of the display.

(4) Permittee shall save and hold the City of De Pere harmless from any and all injury that may occur to any party as the result of Permittee's use of fireworks/pyrotechnics for display within the City. This provision is intended to indemnify and hold harmless the City of De Pere to the fullest extent permitted by law and includes the payment of reasonable attorney fees for the defense of any claims brought which can fairly be said to be under the intent and purpose of this hold harmless agreement. To secure such hold harmless agreement, Permittee shall maintain a general liability insurance policy on its business operations in an amount of not less than Two Million Dollars per occurrence and shall produce a Certificate of Insurance demonstrating to the satisfaction of the City that the City is named as an additional insured for purposes of the permit.

(5) Permittee shall comply with all requirements of Wis. Stats. §167.10 and the current edition of the National Fire Protection Association Standard 1123 and all municipal ordinances in the handling of the fireworks/pyrotechnics.

Section 2. The following provisions of this Code are hereby repealed in their entirety:

1. **§58-9, Underground/aboveground storage tank fees**
2. **§74-9, Safety, maintenance and operation of public swimming pools**
3. §150-22(4), *Special permit*

Section 3. §22-5(c), *Grade setting; permit fee*, is hereby amended by as follows:

1. Changing title of paragraph to *Grade setting; fee*; and
2. Deleting the word “permit” from the fourth sentence of the paragraph; and
3. Deleting the fifth sentence of the paragraph and replacing it with “The fee will be collected by the building inspector at the time of issuance of the building permit.”

**Section 4. §22-8(a), Use of public right of way; Merchandise in streets**, is repealed and recreated as follows:

(a) *Merchandise in streets*. Except as specifically provided in this code, it shall be unlawful for any person to place any goods, wares, displays, decorations, merchandise of any type, or the containers therefor, in, on or above any street or sidewalk in the city without having received a permit therefore as provided in this section or Chapter 106 of this Code.

(1) *Vending machines/collection boxes (other than newsboxes)*.

- a. Vending machines and other collection boxes used for the distribution, collection, or management of non-governmental business operations are prohibited in public right-of-way.
- b. Permit for the placement of vending machines/collection boxes upon city property other than right-of-way may be granted as provided in §106-6(a) of this Code. A permit for the placement within City parks may be granted as provided in §30-2(i) of this Code.

(2) *News boxes*. See §106-6(a)(2)A of this Code.

**Section 5. §22-8(c). Sidewalk café permits**, is repealed and recreated as follows:

§22-8(c) *Sidewalk café permits*. See §106-6(a)(2)B of this Code.

**Section 6. §22-13, Obstructing gutters**, is hereby amended by striking the words “a permit” in the second clause of the paragraph and substituting “permission” therefor.

**Section 7. §30-9(g), Wires, ropes and attachments**, is hereby amended as follows:

The last two sentences thereof are repealed and replaced with the following:

“Requests for a permit to allow such attachments shall be made to the Director of Parks, Recreation and Forestry under §106-6(b) of this Code.”

**Section 8. §78-6(i), Exceptions**, is hereby amended by deleting the phrase “this chapter” at the end of the sentence thereof and replacing the same with “Chapter 110 of this Code”.

Section 9. §130-5, Other provisions, is hereby amended as follows:

1. Paragraph (a) is amended by deleting the phrase “license plate and license number” therefrom;
2. Paragraph (b) is repealed and recreated to read:

(b) *Removal of serial number or license identification.* It shall be unlawful for any person, willfully or maliciously, to remove, destroy, mutilate or alter the serial number of any bicycle, or to remove, destroy, mutilate or alter any license or registration identification issued by any law enforcement agency during the time in which the said license or registration identification is in force.

Section 10. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 11. This ordinance shall take effect on and after passage and publication.

Adopted by the Common Council of the City of De Pere, Wisconsin, this 6<sup>th</sup> day of January, 2015.

APPROVED:

\_\_\_\_\_  
Michael J. Walsh, Mayor

ATTEST:

\_\_\_\_\_  
Shana L. Defnet, Clerk-Treasurer

Ayes:   6  

Nays:   1  

Publication Date: January 12, 2015

Effective Date: January 12, 2015