

# CITY OF WISCONSIN DELLS MEETING AGENDA

**MEETING DESCRIPTION:** LEGISLATIVE COMMITTEE  
**DATE:** MONDAY, NOVEMBER 14, 2016 **TIME:** 6:45PM (or immediately following Plan Commission)  
**LOCATION:** MUNICIPAL BUILDING COUNCIL CHAMBERS - 300 LA CROSSE STREET

		COMMITTEE MEMBERS	
		Ald. Mike Freel, Chair	Ald. Ed Wojnicz
		Mayor Brian Landers	Ald. Ed Fox
AGENDA ITEMS			
1	CALL TO ORDER AND ATTENDANCE NOTED		
2	APPROVAL OF THE AUGUST 8, 2016 MEETING MINUTES		
3	DISCUSSION/DECISION ON APPLICATION FOR AN ORIGINAL CLASS A BEER & CLASS A LIQUOR LICENSE SUBMITTED BY KRISTIE'S FOODS DELLS, LLC, KRISTINA MAUER AGENT, FOR MAUER'S MARKET, 216 WASHINGTON AVENUE, FOR THE LICENSING PERIOD OF DECEMBER 1, 2016 THROUGH JUNE 30, 2017		
4	DISCUSSION/DECISION ON REQUEST TO AMEND CODE SEC. 18.03(4) IN ORDER TO ALLOW OPEN INTOXICANTS ON A COMMERCIAL QUADRICYCLE OR SIMILAR COMMERCIAL CYCLE		
5	DISCUSSION/DECISION ON PROPOSED ORDINANCE TO ALLOW PUBLIC CONSUMPTION OF ALCOHOLIC BEVERAGES IN PUBLIC SPACES DURING SPECIAL EVENTS		
6	DISCUSSION/DECISION ON PROPOSED ORDINANCE TO AMEND THE BOARD OF REVIEW - INCREASING THE MEMBERSHIP SIZE AND MODIFYING THE STRUCTURE		
7	DISCUSSION/POSSIBLE DECISION ON PROPOSED ORDINANCE TO CREATE A RIVER ARTS DISTRICT COMMITTEE		
8	DISCUSSION/POSSIBLE DECISION ON PROPOSED ORDINANCE TO CREATE A BUSINESS REGISTRY		
9	DISCUSSION/POSSIBLE DECISION ON CREATING A TOURIST ROOMING HOUSE CODE SECTION		
10	DISCUSSION/DECISION ON PROPOSED ORDINANCE TO CREATE CODE SEC. 6.15 USE/OCCUPANCY IN RIGHTS-OF-WAY		
11	ITEMS FOR REFERRAL		
12	ADJOURNMENT		
ALD. MIKE FREEL			
DISTRIBUTED & POSTED: 11/10/2016			
<p><b>Open Meetings Notice:</b> If this meeting is attended by one or more members of the Common Council who are not members of this committee, their attendance may create a quorum of another city commission, board or committee under the Wisconsin Open Meetings Law; However, no formal action will be taken by any governmental body at the above stated meeting other than the body, committee, commission, or board identified in this meeting notice. Please be advised that upon reasonable notice, the City of Wisconsin Dells will furnish appropriate auxiliary aids and services to afford individuals with disabilities an equal opportunity to participate in meeting activities.</p>			

**ORIGINAL ALCOHOL BEVERAGE RETAIL LICENSE APPLICATION**

Submit to municipal clerk.

For the license period beginning DECEMBER 1 20 16  
ending JUNE 30 20 17

TO THE GOVERNING BODY of the:  Town of } WISCONSIN DELLS  
 Village of }  
 City of }

County of COLUMBIA Aldermanic Dist. No. \_\_\_\_\_ (if required by ordinance)

1. The named  INDIVIDUAL  PARTNERSHIP  LIMITED LIABILITY COMPANY  
 CORPORATION/NONPROFIT ORGANIZATION

hereby makes application for the alcohol beverage license(s) checked above.

2. Name (individual/partners give last name, first, middle; corporations/limited liability companies give registered name): MAURER'S FOODS DELLS, LLC  
MAURER, KRISTINA MARIE

An "Auxiliary Questionnaire," Form AT-103, must be completed and attached to this application by each individual applicant, by each member of a partnership, and by each officer, director and agent of a corporation or nonprofit organization, and by each member/manager and agent of a limited liability company. List the name, title, and place of residence of each person.

	Title	Name	Home Address	Post Office & Zip Code
President/Member	<u>PRESIDENT</u>	<u>KRISTINA MAURER</u>	<u>906 FORD PI</u>	<u>Maple Bluff, WI 53704</u>
Vice President/Member				
Secretary/Member				
Treasurer/Member				
Agent		<u>KRISTINA M. MAURER</u>		

3. Trade Name MAURER'S MARKET Business Phone Number 608-254-9313  
4. Address of Premises 214 Washington Ave Post Office & Zip Code Wise Dells, WI 53945

5. Is individual, partners or agent of corporation/limited liability company subject to completion of the responsible beverage server training course for this license period?  Yes  No  
6. Is the applicant an employe or agent of, or acting on behalf of anyone except the named applicant?  Yes  No  
7. Does any other alcohol beverage retail licensee or wholesale permittee have any interest in or control of this business?  Yes  No  
8. (a) Corporate/limited liability company applicants only: Insert state Wisc and date 10-12-16 of registration.  Yes  No  
(b) Is applicant corporation/limited liability company a subsidiary of any other corporation or limited liability company?  Yes  No  
(c) Does the corporation, or any officer, director, stockholder or agent or limited liability company, or any member/manager or agent hold any interest in any other alcohol beverage license or permit in Wisconsin?  Yes  No

(NOTE: All applicants explain fully on reverse side of this form every YES answer in sections 5, 6, 7 and 8 above.)

9. Premises description: Describe building or buildings where alcohol beverages are to be sold and stored. The applicant must include all rooms including living quarters, if used, for the sales, service, consumption, and/or storage of alcohol beverages and records (Alcohol beverages may be sold and stored only on the premises described.) Sales Floor and basement  
10. Legal description (omit if street address is given above): \_\_\_\_\_  
11. (a) Was this premises licensed for the sale of liquor or beer during the past license year?  Yes  No  
(b) If yes, under what name was license issued? Zinke's MARKET  
12. Does the applicant understand they must file a Special Occupational Tax return (TTB form 5630.5d) before beginning business? (phone 1-800-937-8864)  Yes  No  
13. Does the applicant understand they must hold a Wisconsin Seller's Permit? (phone (608) 266-2776)  Yes  No  
14. Does the applicant understand that they must purchase alcohol beverages only from Wisconsin wholesalers, breweries and brewpubs?  Yes  No

READ CAREFULLY BEFORE SIGNING: Under penalty provided by law, the applicant states that each of the above questions has been truthfully answered to the best of the knowledge of the signers. Signers agree to operate this business according to law and that the rights and responsibilities conferred by the license(s), if granted, will not be assigned to another. (Individual applicants and each member of a partnership applicant must sign; corporate officer(s), members/managers of Limited Liability Companies must sign.) Any lack of access to any portion of a licensed premises during inspection will be deemed a refusal to permit inspection. Such refusal is a misdemeanor and grounds for revocation of this license.

SUBSCRIBED AND SWORN TO BEFORE ME  
this 25 day of October, 20 16

Johanna Ragala  
Notary Public  
My commission expires 09-25-2017

Kristina Maurer  
(Officer of Corporation/Member/Manager of Limited Liability Company/Partner/Individual)

[Signature]  
(Officer of Corporation/Member/Manager of Limited Liability Company/Partner)

[Signature]  
(Additional Partner(s)/Member/Manager of Limited Liability Company if Any)

**TO BE COMPLETED BY CLERK**

Date received and filed with municipal clerk	Date reported to council/board	Date provisional license issued	Signature of Clerk / Deputy Clerk
Date license granted	Date license issued	License number issued	

**SCHEDULE FOR APPOINTMENT OF AGENT BY CORPORATION/NONPROFIT ORGANIZATION OR LIMITED LIABILITY COMPANY**

Submit to municipal clerk.

All corporations/organizations or limited liability companies applying for a license to sell fermented malt beverages and/or intoxicating liquor must appoint an agent. The following questions must be answered by the agent. The appointment must be signed by the officer(s) of the corporation/organization or members/managers of a limited liability company and the recommendation made by the proper local official.

To the governing body of:  Town  Village of Wisconsin Dells County of Columbia  
 City

The undersigned duly authorized officer(s)/members/managers of KRISTIE'S FOODS DELLS LLC  
(registered name of corporation/organization or limited liability company)

a corporation/organization or limited liability company making application for an alcohol beverage license for a premises known as

MAURER'S MARKET (trade name)  
 located at 2106 Washington Ave Wisconsin Dells, WI 53905

appoints KRISTINA M. MAUREK (name of appointed agent)  
9 OXFORD PL Maple Bluff WI 53704 (home address of appointed agent)

to act for the corporation/organization/limited liability company with full authority and control of the premises and of all business relative to alcohol beverages conducted therein. Is applicant agent presently acting in that capacity or requesting approval for any corporation/organization/limited liability company having or applying for a beer and/or liquor license for any other location in Wisconsin?

Yes  No If so, indicate the corporate name(s)/limited liability company(ies) and municipality(ies).

Is applicant agent subject to completion of the responsible beverage server training course?  Yes  No

How long immediately prior to making this application has the applicant agent resided continuously in Wisconsin? 5 yrs

Place of residence last year 9 OXFORD PLACE Maple Bluff, WI 53704

For: KRISTIE'S FOODS DELLS LLC  
(name of corporation/organization/limited liability company)

By: K M Ma  
(signature of Officer/Member/Manager)

And: K M Ma  
(signature of Officer/Member/Manager)

**ACCEPTANCE BY AGENT**

KRISTINA M. MAUREK (print/type agent's name) hereby accept this appointment as agent for the

corporation/organization/limited liability company and assume full responsibility for the conduct of all business relative to alcohol beverages conducted on the premises for the corporation/organization/limited liability company.

K M Ma (signature of agent) 10.25.16 (date)

Agent's age 35

9 OXFORD PLACE MAPLE BLUFF, WI 53704 (home address of agent)

Date of birth 12.22.80

**APPROVAL OF AGENT BY MUNICIPAL AUTHORITY**  
(Clerk cannot sign on behalf of Municipal Official)

I hereby certify that I have checked municipal and state criminal records. To the best of my knowledge, with the available information, the character, record and reputation are satisfactory and I have no objection to the agent appointed.

Approved on \_\_\_\_\_ by \_\_\_\_\_ Title \_\_\_\_\_  
(date) (signature of proper local official) (town chair, village president, police chief)

**AUXILIARY QUESTIONNAIRE  
ALCOHOL BEVERAGE LICENSE APPLICATION**

Submit to municipal clerk.

Individual's Full Name (please print) (last name)		(first name)		(middle name)	
MAURER		KRISTINA		MARIE	
Home Address (street/route)		Post Office	City	State	Zip Code
9 OXFORD PLACE			MADISON BLUFF	WI	53704
Home Phone Number		Age	Date of Birth	Place of Birth	
608 434.2372		35	12/22/1980	SEPOL, MN	

The above named individual provides the following information as a person who is (check one):

- Applying for an alcohol beverage license as an individual.
- A member of a partnership which is making application for an alcohol beverage license.
- PRESIDENT of KRISTIE'S FOODS DELLS LLC  
(Officer/Director/Member/Manager/Agent) (Name of Corporation, Limited Liability Company or Nonprofit Organization)

which is making application for an alcohol beverage license.

The above named individual provides the following information to the licensing authority:

- How long have you continuously resided in Wisconsin prior to this date? 5 years
- Have you ever been convicted of any offenses (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of any other states or ordinances of any county or municipality?  Yes  No  
 If yes, give law or ordinance violated, trial court, trial date and penalty imposed, and/or date, description and status of charges pending. (if more room is needed, continue on reverse side of this form.)
- Are charges for any offenses presently pending against you (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of other states or ordinances of any county or municipality?  Yes  No  
 If yes, describe status of charges pending.
- Do you hold, are you making application for or are you an officer, director or agent of a corporation/nonprofit organization or member/manager/agent of a limited liability company holding or applying for any other alcohol beverage license or permit?  Yes  No  
 If yes, identify. (Name, Location and Type of License/Permit)
- Do you hold and/or are you an officer, director, stockholder, agent or employe of any person or corporation or member/manager/agent of a limited liability company holding or applying for a wholesale beer permit, brewery/winery permit or wholesale liquor, manufacturer or rectifier permit in the State of Wisconsin?  Yes  No  
 If yes, identify. (Name of Wholesale Licensee or Permittee) (Address by City and County)
- Named individual must list in chronological order last two employers.

Employer's Name	Employer's Address	Employed From	To
FRESH CIVIL MARKET	703 UNIVERSITY AVE, MADISON	8/2014	CURRENT
Employer's Name	Employer's Address	Employed From	To
MAURER'S FOODS LLC	703 UNIVERSITY AVE MADISON	11/2010	8/2014

The undersigned, being first duly sworn on oath, deposes and says that he/she is the person named in the foregoing application; that the applicant has read and made a complete answer to each question, and that the answers in each instance are true and correct. The undersigned further understands that any license issued contrary to Chapter 125 of the Wisconsin Statutes shall be void, and under penalty of state law, the applicant may be prosecuted for submitting false statements and affidavits in connection with this application.

Subscribed and sworn to before me  
 this 25 day of October, 2016  
Juliana Hagan  
(Clerk/Notary Public)  
 My commission expires 09-25-2017

Kristina Maurer  
(Signature of Named Individual)

### 18.03 ALCOHOLIC BEVERAGES

ITEM 4

- (1) Reference to State Statutes Adopted. See generally Code of Ordinances ss. 18.125.02 to 18.125.69.
- (2) Definitions. In this section the following terms shall have the following meanings:
  - (a) "Public Place" means any public street, highway, alley, sidewalk, parking lot, government building, park, or other public property.
- (3) Alcoholic Beverages in Public Places.
  - (a) Consumption of Alcoholic Beverages in Public Places. No person shall consume any intoxicating liquor, wine, or fermented malt beverage while in or upon any public place.
  - (b) Consumption of Alcoholic Beverages to be on Premises. No person who purchases wine, alcoholic or fermented malt beverages by the glass or in open containers shall consume the same other than upon the premises where served, and they shall not remove the same to public places in the City of Wisconsin Dells.
  - (c) Possession of Alcoholic Beverages in Public Places. No person shall be in possession of any glass or open container containing wine, alcoholic or fermented malt beverages in any public place.
  - (d) Permits Issued. Fraternal and service organizations and clubs may apply for a permit to have meetings, festivals, and activities held in a public place so that alcoholic and fermented malt beverages may be consumed during the time permitted as designated on the permit and within the area specified in the permit.
  - (e) Notices to be Posted. All premises licensed for the sale of fermented malt beverages, wine, or intoxicating liquor shall post a notice at each exit stating that "No beer, liquor, or wine may be carried in an open container out of this building."
- (4) **Pedal Pubs. No person shall drink from or have in their possession an open container of fermented malt beverage or intoxicating liquor while on a commercial quadricycle as defined by s. 340.01(8m), Wis. Stat.; or while on any other type of commercial cycle.**

*Current Code*

City of Wisconsin Dells

ORDINANCE NO. \_\_\_\_\_

The City of Wisconsin Dells, Adams, Columbia, Juneau and Sauk Counties, Wisconsin, does hereby ordain as follows:

SECTION I: PURPOSE

The purpose of this ordinance is to create a code section regarding alcoholic beverage consumption at public events.

SECTION II: PROVISION CREATED

Wisconsin Dells Code sec. 16.12 (17) is created.

SECTION III: PROVISION AS CREATED:

16.12(17) Special Event Public Consumption

- (a) This code section is an exception to the provision of Code sec. 18.03 (3) "Alcoholic Beverages in Public Places".
- (b) The legislative committee may recommend and the Common Council may approve the possession and consumption of alcoholic beverages in public places as provided in this section.
- (c) Alcoholic beverages may be possessed and consumed in public places in connection with designated special events.
- (d) The city will establish the terms and conditions of such special event public consumption permits including, without limitation, dates, hours, location and vendors.
- (e) The permit shall require that service of alcoholic beverages may be made only to persons wearing a wristband approved by the Chief of Police in plastic containers which are conspicuous and unique to the event.

SECTION IV: VALIDITY

Should any section, clause or provision of the ordinance be declared by the courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.

SECTION V: CONFLICTING PROVISIONS REPEALED

All ordinances in conflict with any provisions of this ordinance are hereby repealed.

SECTION VI: EFFECTIVE DATE

This ordinance shall be in force from and after its introduction and publication and as provided by statute.

SECTION VII: PART OF CODE

This ordinance becomes a part of Wisconsin Dells Code, Chapter 16.

\_\_\_\_\_  
Brian L. Landers, Mayor

\_\_\_\_\_  
Nancy R. Holzem, Clerk

INTRODUCED: \_\_\_\_\_  
PUBLISHED: \_\_\_\_\_  
PASSED: \_\_\_\_\_

City of Wisconsin Dells  
(Board of Review)

ORDINANCE NO. \_\_\_\_\_

The City of Wisconsin Dells, Adams, Columbia, Juneau and Sauk Counties, Wisconsin, does hereby ordain as follows:

SECTION I: PURPOSE

All Wisconsin municipalities must have a board of review. The board is a quasi-judicial (i.e. court like) body that hears and decides appeals by property owners dissatisfied with the value placed upon their property by the municipal assessor for property tax purposes. Boards of review have the following three primary duties:

1. Adjust the assessor's valuation of a parcel when the assessment has been proven incorrect by sworn testimony at hearing before the board.
2. Correct any errors or omissions in the descriptions or computations found on the assessment roll.
3. Check the assessment roll for omitted property and double assessments.

The current composition of the Wisconsin Dells Board of Review is the mayor (chair), the clerk and a council member, with an alternate. This ordinance increases the size of the board, modifies the board's membership and clarifies when the alternate member may act.

SECTION II: PROVISIONS AFFECTED

Wisconsin Dells Code sec. 1.04(4) is repealed and recreated.

SECTION III: PROVISIONS AS AFFECTED:

**1.04(4) Board of Review.**

- (a) The Board of Review shall have five (5) members as follows: Mayor, two (2) members of the Common Council and two (2) public members; all appointed annually at the Common Council's organizational meeting.
- (b) There shall be one (1) alternate member, appointed annually at the organizational meeting who shall serve and act only if a sitting member is removed or unable to serve pursuant to Wis. Stat. sec. 70.47(6).

- (c) The Mayor shall be presiding officer of the Board. The City Clerk shall be the clerk of the Board and shall keep an accurate record of all proceedings and give the notices of meetings and adjournments as required.

SECTION IV: SEVERABILITY

The provisions of this ordinance shall be deemed severable and it is expressly declared that the City would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provision of this ordinance or the application to any person or circumstances is held invalid, the remainder of the ordinance and the application of such provisions to other persons or circumstances shall not be affected.

SECTION V: CONFLICTING PROVISIONS REPEALED

All ordinances in conflict with any provisions of this ordinance are hereby repealed.

SECTION VI: EFFECTIVE DATE

This ordinance shall be in force from and after its introduction and publication and as provided by statute.

SECTION VII: PART OF CODE

This ordinance becomes a part of Wisconsin Dells Code, Chapter 1.

\_\_\_\_\_  
Brian L. Landers, Mayor

\_\_\_\_\_  
Nancy R. Holzem, Clerk

INTRODUCED: \_\_\_\_\_  
PUBLISHED: \_\_\_\_\_  
PASSED: \_\_\_\_\_

August 22, 2016

City of Wisconsin Dells

ORDINANCE NO. \_\_\_\_\_

The City of Wisconsin Dells, Adams, Columbia, Juneau and Sauk Counties, Wisconsin, does hereby ordain as follows:

SECTION I: PURPOSE

The purpose of this ordinance is to create a "River Arts District Committee".

SECTION II: PROVISIONS AFFECTED

A. Wisconsin Dells Code sec. 1.11 is created.

SECTION III: PROVISIONS AS AFFECTED:

**A. 1.11 RIVER ARTS DISTRICT COMMITTEE**

- (1) Committee Established. The City shall have a "River Arts District Committee".
- (2) Members/Officers. The Rivers Arts District Committee shall have six (6) members as follows:
- (a) A member of the common council who shall serve as chairperson of the committee, the entertainment coordinator of the Wisconsin Dells Visitors and Convention Bureau; and four (4) public members.
  - (b) The members of the committee shall be appointed annually by the Mayor and confirmed by the Common Council.
  - (c) Two (2) of the public members may be non-residents of the City. The public members shall have backgrounds in the fields of tourism, arts or entertainment.
- (3) Without limitation the Committee shall oversee, plan and manage the following:
- (a) River Arts District entertainment venues including Duchess Plaza.
  - (b) Busker program.

- (c) Network with state, local and national artists for events and opportunities in the River Arts District.
- (d) River Arts District trademark and trade name.
- (e) Seek and coordinate funding and sponsorship of cultural and historic art opportunities.
- (f) Other such responsibilities as designated by the Mayor and/or Common Council.

SECTION IV: VALIDITY

Should any section, clause or provision of the ordinance be declared by the courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.

SECTION V: CONFLICTING PROVISIONS REPEALED

All ordinances in conflict with any provisions of this ordinance are hereby repealed.

SECTION VI: EFFECTIVE DATE

This ordinance shall be in force from and after its introduction and publication and as provided by statute.

SECTION VII: PART OF CODE

This ordinance becomes a part of Wisconsin Dells Code, Chapter 1.

\_\_\_\_\_  
Brian L. Landers, Mayor

\_\_\_\_\_  
Nancy R. Holzem, Clerk

INTRODUCED: \_\_\_\_\_

PUBLISHED: \_\_\_\_\_

PASSED: \_\_\_\_\_

October 13, 2016

City of Wisconsin Dells

ORDINANCE NO. \_\_\_\_\_  
(Business Registration)

The City of Wisconsin Dells, Adams, Columbia, Juneau and Sauk Counties, Wisconsin, does hereby ordain as follows:

SECTION I: PURPOSE

See "Purpose clause" of ordinance in the text below.

SECTION II: PROVISION CREATED

Wisconsin Dells Code Sec. 16.29 is amended.

SECTION III: PROVISION AS CREATED:

**16.29 BUSINESS REGISTRATION**

- (1) Purpose/Intent. The purpose and intent of the city business registry is to collect information and data for statistical and policy development purposes and to provide for the necessary regulation of lawful businesses conducted in the city in order to protect public health, safety and welfare.
- (2) Definitions.
  - (a) "Business" means and includes commercial, industrial and professional trades, vocations, enterprises, establishments, occupations, including home occupations, and all and every kind of calling, any of which are conducted, transacted or carried on for the purpose of earning in whole or in part a profit or livelihood, whether or a not a profit or livelihood is actually earned and whether paid in money or goods, labor or otherwise.
  - (b) "Person" means all domestic and foreign corporations, associations, syndicates, partnerships of every kind, joint ventures, societies and individuals transacting and carrying on any business in the city.

DRAFT

(3) Registration/Exemptions.

(a) Any person operating or carrying on a business as defined above shall complete and file with the City Clerk a Business Registration Form.

(b) The following business activities shall be exempt from registration:

1. Religious educational and charitable organizations specifically exempt from taxation under the federal income tax code; and
2. Fairs, festivals and public entertainment events sponsored by non-profit or government operations.

(4) Registration Fee.

Fees for business registration shall be established by Common Council Resolution and listed in the city fee schedule. Fees shall be revenue neutral and not exceed the reasonable costs of collection and administration. This is not a business tax.

(5) Registration Term.

(a) The annual business registration term shall be April 1 through March 31.

(b) Prorated fees shall be paid by new or transferred businesses.

(6) Registration Information Collected.

The registration form or renewal, shall contain such information as the City deems appropriate to determine the ownership location activities and management of the business including, without limitation, the following:

1. Business name and address
2. Business owner and address
3. Property/location owner and address
4. Hours of operation
5. Number of employees (full-time and part-time)
6. Description of products/services

7. SIC Code
8. Emergency contact information
9. Hazardous chemicals/substances disclosure
10. Premier Resort tax status.

SECTION IV: VALIDITY

Should any section, clause or provision of the ordinance be declared by the courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.

SECTION V: CONFLICTING PROVISIONS REPEALED

All ordinances in conflict with any provisions of this ordinance are hereby repealed.

SECTION VI: EFFECTIVE DATE

This ordinance shall be in force from and after its introduction and publication and as provided by statute.

SECTION VII: PART OF CODE

This ordinance becomes a part of Wisconsin Dells Code, Chapter 16.

\_\_\_\_\_  
Brian L. Landers, Mayor

\_\_\_\_\_  
Nancy R. Holzem, Clerk

INTRODUCED: \_\_\_\_\_  
PUBLISHED: \_\_\_\_\_  
PASSED: \_\_\_\_\_

# Lake Delton's Ordinance

## Chapter 35 TOURIST ROOMING HOUSE

ITEM 9

- 35.01 Purpose
- 35.02 Definitions
- 35.03 Operation of Tourist Rooming Houses
- 35.04 Tourist Rooming House Permit, Property Manager License
- 35.05 Resident Agent
- 35.06 Procedure
- 35.07 Renewal
- 35.08 Room Tax
- 35.09 Inspections
- 35.10 Display of Permit, License
- 35.11 Standards for Tourist Rooming Houses
- 35.12 Special Exceptions Permits
- 35.13 Fees
- 35.14 Penalties and Fees
- 35.15 Enforcement

**35.01 Purpose.** The purpose of this Chapter is to ensure that the quality of tourist rooming houses operating within the Village is adequate for protecting public health, safety and general welfare, including establishing minimum standards of space for human occupancy and for an adequate level of maintenance; determining the responsibilities of owners, operators and property managers offering these properties for tourists, to protect the character and stability of all areas within the Village of Lake Delton; to provide minimum standards necessary for the health and safety of persons occupying or using buildings, structures or premises; and provisions for the administration and enforcement thereof.

### **35.02 Definitions.**

**A.** For the purpose of administering and enforcing this Chapter, the terms or words used herein shall be interpreted as follows:

1. Words used in the present tense include the future.
2. Words in the singular number include the plural number.
3. Words in the plural number include the singular number.

**B.** The following definitions and conditions apply unless specifically modified:

**Bathroom.** Full bath.

**Clerk.** The Village Clerk of the Village of Lake Delton, or designee.

**Corporate Entity:** A corporation, partnership, limited liability company, or sole proprietorship licensed to conduct business in this state.

**Dwelling Unit:** One (1) or more rooms with provisions for living, cooking, sanitary, and sleeping facilities and a bathroom arranged for exclusive use by one (1)

person or one (1) family. Dwelling Units include residential, tourist rooming house, seasonal employee housing and dormitory units.

**License.** The Property Management License issued under s.35.04.

**Owner.** The owner of a tourist rooming house.

**Permit.** An individual tourist rooming house permit issued under s.35.04.

**Person.** Shall include a corporation, firm, partnership, association, organization and any other group acting as a unit as well as individuals, including a personal representative, receiver or other representative appointed according to law. Whenever the word person is used in any section of this Chapter prescribing a penalty or fine, as to partnerships or associations, the word shall include the partners or members hereof, and as to corporations, shall include the officers, agents or members thereof who are responsible for any violation of such section.

**Resident Agent.** Any person appointed by the owner of a tourist rooming house to act as agent on behalf of the owner.

**Property Manager.** Any person providing property management services to a least five (5) tourist rooming houses.

**Short Term Rental.** The rental of a dwelling unit for a period of less than 29 consecutive days.

**State.** The State of Wisconsin Department of Health, or its designee.

**Tourist Rooming House.** Any lodging place or tourist cabin or cottage where sleeping accommodations are offered for pay to tourists or transients. Houses, cabins, and/or condominium units operated by a hotel, motel or resort are not tourist rooming houses under this Chapter.

**Tourist Rooming House Complex.** A condominium with eight (8) or more units operating as tourist rooming houses.

### **35.03 Operation of Tourist Rooming Houses.**

**A.** No person may operate a tourist rooming house without a tourist rooming house permit. Every tourist rooming house shall be operated by a Resident Agent or licensed Property Manager.

**B.** Each tourist rooming house is required to have the following licenses and permits:

1. A State of Wisconsin Department of Health Service License
2. a seller's permit issued by the Wisconsin Department of Revenue;
3. a Conditional Use Permit;

4. Wisconsin Department of Revenue Premier Resort Tax number;
5. a Room Tax Permit; and
6. a permit or license issued pursuant to the provisions of this Chapter.

**C. Exemptions.** The following operations are exempt from complying with the requirements of this Chapter:

1. A private boarding or rooming house, ordinarily conducted as such, not accommodating tourists or transients.
2. A hotel, motel or resort license issued by the State of Wisconsin Department of Health, pursuant to s.254.64 Wis. Stats.
3. Bed and breakfast establishments.

#### **35.04 Tourist Rooming House Permit; Property Manager License.**

**A.** The Clerk shall issue an original tourist rooming house permit to all applicants following the approval of an application by the Village Board and the filing of all documents and records required under this Chapter.

**B.** The Clerk shall issue a property manager license to all applicants following the approval of the application by the Village Board and the filing of all documents and records required under this Chapter.

**C.** The resident agent must be authorized to allow Village employees, officers and their designees, to enter the owner's property for purposes of inspection and enforcement of this Chapter and/or the Village Municipal Code.

**D.** No person may act as a property manager for a tourist rooming house without a property manager license issued in accordance with the provisions of this Chapter. The property manager license shall apply to all tourist rooming houses for which the property manager has exclusive rights for the rental of the property. The property manager must certify to the Village that each tourist rooming house operating under the property manager license complies with the standards of this Chapter.

#### **35.05 Resident Agent; Property Manager.**

**A.** All tourist rooming houses are required to appoint a Resident Agent for the receipt of service of notice of violation of this Chapter's provisions and for service of process pursuant to this Chapter. Such a designation shall be made by the owner and shall accompany each application form. Said applicant shall immediately notify the Clerk of any change in residence or information regarding the Resident Agent.

**B.** To qualify as a Resident Agent the person must meet the following requirements:

1. Be a natural person residing in or within twenty-five (25) miles of the Village of Lake Delton; or a corporate entity with offices located within twenty-five (25) miles of the Village of Lake Delton.
2. The applicant does not have pending any criminal charge and has not been convicted of a felony or misdemeanor of any offense involving dishonesty, fraud, deceit, robbery, the use or threatened use of force or violence upon the person of another, or sexual immorality under Ch. 944, Wisconsin Statutes, as amended.

3. The applicant is authorized by owner to accept service of process for all Village communications, citations and orders.

**C. Resident Agent Permit.** Application for a Resident Agent permit, and payment of the application fee, shall be filed with the Clerk, who shall issue the permit to all qualified applicants. Each Resident Agent permit shall be for a period of one (1) year commencing on July 1, or the date of issuance, and shall expire on June 30 of each year. No fee is required for the owner of a tourist rooming house residing within twenty-five (25) miles of the Village of Lake Delton who is serving as Resident Agent.

**D. Property Manager License.** No person may act as a property manager for a tourist rooming house without a property manager license issued in accordance with the provisions of this Chapter. The property manager license shall apply to all tourist rooming houses for which the property manager has exclusive rights for the rental the property. The property manager shall serve as the Resident Agent for the property owner. The property manager must certify to the Village that each tourist rooming house operating under the license complies with the standards of this Chapter.

**E. Property Manager qualifications.** To qualify as a Property Manager the applicant must meet the following requirements:

1. Comply with the qualifications for a Resident Agent as set forth in s. 35.05 (B)
2. Shall be managing not less than five (5) tourist rooming houses operating in the Village of Lake Delton.
3. Shall hold the following licenses and permits in its name:
  - a. a Seller's Permit issued by the Wisconsin Department of Revenue;
  - b. a Room Tax Permit issued by the Village of Lake Delton;
  - c. an employer identification number issued by the Internal Revenue Service;
  - d. Wisconsin Department of Revenue Premier Resort Tax number.

**F.** Each Resident Agent and Property Manager shall be authorized by the property owner to act as the agent for the owner for the receipt of service of notice of violation of this Chapter's provisions and for service of process pursuant to this Chapter and shall be authorized by the owner to allow Village employees, officers and their designees, to enter the owner's property for purposes of inspection and enforcement of this Chapter and/or the Village Municipal Code.

### **35.06 Procedure.**

**A.** All applications for a tourist rooming house permit shall be filed with the Clerk on forms provided. Applications must be filed by the property owner or on the owner's behalf by the licensed Property Manager. Each applicant shall certify to the Village that the tourist rooming house included in the permit is in compliance with the provisions of this Chapter. No permit shall be issued unless the completed application form is accompanied by payment of the required fee.

**B.** Each application shall include the following information and documentation for each tourist rooming house unit:

1. Conditional Use Permit.

2. State of Wisconsin Department of Health Services License for a tourist rooming house license issued under s.254.64 Wis. Stats.
3. A copy of a completed State Lodging Establishment Inspection form dated within one (1) year of the date of issuance or renewal.
4. The Wisconsin Department of Revenue Premier Resort Sales Tax Number.
5. Proof of Insurance.
6. Seller's Permit from the Department
7. Floor plan and requested maximum occupancy
8. Site plan including available onsite parking.
9. Property Management Agreement (if applicable)
10. Designation of the Resident Agent.
11. Certification from the owner or licensee that the property meets the requirements of s. 35.12 below.
12. Applications for renewal permits filed by Property Managers are not required to include the documentation for each individual unit for items listed in subparagraph 4, 5, 6, 7, 8, 9, 10, unless the information on the renewal application has changed.

**C. Terms and Filing date.** Each permit and license shall run from July 1 through June 30 of the following year. All applications must be filed on or before May 1, 2014 and by May 1st of each subsequent year. The filing fee shall be paid upon filing of the application. The Clerk may conditionally accept late applications, subject to payment of the late filing fee. Any application which does not include all of the information and documentation shall not be considered as complete.

**D. Application Review Procedure.** When satisfied that the application is complete, the Clerk shall forward initial applications for permits and licenses to the Housing and Property Maintenance Committee for review at the next scheduled meeting or within thirty (30) days of the filing date, whichever first occurs. The Housing and Property Management Committee shall consider the application and supporting documents. If the Committee determines that the application meets the requirements of this Chapter it shall forward the application to the Village Board for approval. If the Committee determines that the application does not meet the requirements of this Chapter, it shall deny the application. If the applicant qualifies for a special exception permit under s.35.13, the Committee may recommend approval to the Village Board as a special exception permit subject to the special exceptions and conditions to be placed upon the application. Any denial or conditional approval by the Committee shall be in writing setting forth the reasons for the determination.

**E.** The Village Board shall consider the application and the recommendation of the Housing and Property Management Committee at its next scheduled meeting. The Village Board may approve, grant a special exception permit, or deny the application. Any denial or conditional approval by the Village Board shall be in writing setting forth the reasons for the determination.

**F.** The Village Clerk shall issue a permit for each tourist rooming house approved by the Village Board. The permit shall include the following information:

1. Identify the Property Owner;
2. Identify the Resident Agent/Property Manager with contact information;
3. The maximum occupancy for the premises;
4. The permit term;

5. State lodging license number; and
6. Contact information for the Village.

**G.** No permit or license shall be issued or renewed unless there is filed with the Clerk a completed Fire Inspection Report dated not more than one (1) year before the date of issuance or renewal.

**H.** No permit or license shall be issued or renewed, if the applicant or property has outstanding fees, taxes or forfeitures owed to the Village, unless arrangements for payment have been approved by the Village Board.

**I.** Electronic Filing. Each application, report and supporting documentation filed under this chapter may be filed electronically in the manner and form prescribed by the Village Clerk.

### **35.07 Renewal.**

**A.** Each application for a renewal of a permit or license shall include updated information for the documentation on file with the Clerk and payment of the applicable fee. The Clerk shall verify that the information provided on the renewal application is complete and in accordance with the requirements of this Chapter. The Clerk shall request reports from the Police Department and the Zoning Administrator regarding any complaints received, calls for service or actions taken regarding the permitted properties. The Clerk shall issue renewal licenses within ten (10) days of the filing of the application unless the information provided is incomplete or otherwise not in compliance with the requirements of this Chapter and/or the reports from the Police Department and the Zoning Administrator indicate that there are complaints or actions involving the property.

**B.** If the Clerk finds that the license or permit should not be renewed, or that the application should be considered by the Village Housing and Property Maintenance Committee, the Clerk shall forward the application to the Village Housing and Property Maintenance Committee for action along with a written explanation of the reason for referral. Upon referral to the Property Maintenance Committee the procedures set forth in s. 35.06 (D) shall apply.

**C.** No permit or license shall be issued or renewed unless there is filed with the Clerk a completed Fire Inspection Report by the Village fire inspector dated within one (1) year of the issue date.

**D.** No permit or license shall be renewed if the applicant or property has outstanding fees, taxes or forfeitures owed to the Village, or is under an order issued by the Building Inspector, or his designee, to bring the premises into compliance with Village ordinances, unless arrangements for payment have been approved by the Village Board.

**E.** All permits in effect prior to the effective date of this chapter are eligible for renewal.

### **35.08 Room Tax.**

**A.** Each tourist rooming house shall comply with the room tax reporting requirements of Chapter 11 of the Village Municipal Code.

**B.** Each Property Manager Licensee shall file consolidated room tax returns for the managed tourist rooming houses.

C. All tax returns and supporting documentation filed with the Clerk are confidential and subject to the protections provided under s. 11.48, Village Municipal Code and s.66.0 615(3) and s.77.61 Wisconsin Statutes.

**35.09 Inspections.**

A. Each separate unit which is offered for rental as a tourist rooming house is required to be inspected annually by the State and the Village Fire Inspector. If the State fails to inspect the tourist rooming house, the applicant may request that the building inspector conduct the inspection.

B. If the Building Inspector conducts the inspection, the holder of a permit or license shall be responsible for payment of the inspection fees.

C. If the Building Inspector or Fire Inspector at any time is unable to conduct an inspection due to denial of access, the tourist rooming house shall not operate until it has passed the inspection.

**35.10 Display of Permit.** Each permit shall be displayed on the inside of the main entrance door of each tourist rooming house.

**35.11 Standards for Tourist Rooming Houses.** Each tourist rooming house shall comply with this Chapter's requirements or any other applicable Village ordinance, or constitutes and/or causes a nuisance. Each tourist rooming house shall comply with the following minimum requirements:

A. not less than one (1) bathroom for every six (6) occupants.

B. not less one hundred fifty (150) square feet of floor space for the first occupant thereof and at least an additional one hundred (100) square feet of floor space for every additional occupant thereof; the floor space shall be calculated on the basis of total habitable room area. Floor space is determined using interior measurements of each room. Floor space does not include kitchens, bathrooms, closets, garages, or rooms not meeting Uniform Dwelling Code requirements for occupancy. The maximum occupancy for any premises without a separate enclosed bedroom is two (2) people.

C. each tourist rooming house complex shall have a manager residing on the premises.

D. not less than one and one quarter (1 ¼) onsite off-street parking spaces for every four (4) occupants based upon maximum occupancy.

E. a safe, unobstructed means of egress leading to safe, open space at ground level.

F. shall have functional smoke detectors and carbon monoxide detectors in accordance with the requirements of Chapter SPS 362 of the Wisconsin Administrative Code.

G. shall not have an accessible wood burning fireplace unless the owner provides a certificate from a licensed commercial building inspector, dated not more than thirty (30) days prior to submission, certifying that the fireplace and chimney have been inspected and are in compliance with National Fire Prevention Association Fire Code Chapter 211 Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances.

H. shall not have a hibachi, gas-fired grill, charcoal grill, or other similar devices used for cooking, heating, or any other purpose on any balcony, deck or under any overhanging structure or within ten (10) feet of any structure.

I. All Property Managers shall carry casualty and liability insurance issued by an insurance company authorized to do business in this state by the Wisconsin Office of the Commissioner of

Insurance, with liability limits of not less than \$300,000 per individual and \$1,000,000 aggregate.

**J. Certification of compliance.** As a condition of issuance of a license under this Chapter, the Property Manager shall certify that each managed property is in compliance with the terms and conditions of the license and this Chapter.

### **35.12 Special Exceptions Permits.**

**A.** Any person asking to be relieved from the strict enforcement of this Chapter's provisions may apply for a Special Exceptions Permit. The application shall be on a form provided by the Assistant Zoning Administrator. The completed form and all supporting documents shall be filed with the Assistant Zoning Administrator along with the filing fee. The Assistant Zoning Administrator shall forward the application to the Zoning Administrator. Within ten (10) days of receiving the application for a Special Exceptions Permit, the Zoning Administrator shall issue a written report to the Village Board including his recommendation.

**B.** Following the review and issuance of a report by the Village Zoning Administrator, the application will be reviewed by the Committee. The Committee may require the applicant to furnish additional information it deems necessary in its review of the application.

**C.** When reviewing an application for a Special Exception Permit, the Committee and the Village Board will take into consideration such factors it deems appropriate, including but not limited to:

1. The Special Exceptions Permit will not be unreasonably detrimental to or endanger the public health, safety, comfort or general welfare.
2. The uses, values and enjoyment of other property in the neighborhood shall not be substantially impaired or diminished by the proposed Special Exception Permit.
3. The Special Exception Permit will not unduly create a danger to pedestrians or traffic.
4. The past experience with the applicant or similar business operations.
5. That the issuance of a Special Exception Permit will not violate the terms or conditions of a Conditional Use Permit or variance for the permitted premise.
6. The proposed special exception must comply with all other local ordinances and applicable state laws.
7. Such other factors due to the specific circumstances that the Village Housing Committee or Village Board deems appropriate.

**D.** After reviewing the application and supporting documentation the Committee shall forward the application to the Village Board for final action along with its recommendations.

### **35.13 Fees.**

**Permits** – (Individual tourist rooming house)

Initial Permit application fee \$500

Original Permit fee \$100 + \$5.00 per person – based on maximum occupancy per unit

Renewal Permit application fee \$100

Renewal Permits \$50 + \$5.00 per person – based on maximum occupancy per unit

**Licenses** – (Property Management License)

Initial License application fee \$500

Initial Permit fee \$50 per unit + \$5.00 per person – based on maximum occupancy per unit

Renewal License Application fee \$100

Renewal Permit fee \$50 per unit + \$5.00 per person – based on maximum occupancy per unit

New units added under a Property Management License

Initial permit application fee \$400

Initial permit fee \$50 + \$5.00 per person – based on maximum occupancy per unit

Special Exception initial application fee \$500

Special Exception Initial Permit \$100 + \$5.00 per person – based on maximum occupancy per unit

Special Exception Renewal Permit fee \$50 + \$5.00 per person – based on maximum occupancy per unit

Late fees – Double Fee

Inspections - \$100

Resident Agent - \$50

If a property (Individual or Property Management) needs a new conditional use permit, the fee is assessed at the time of application

Currently licensed tourist rooming houses do not need to file applications and are eligible for renewal.

If a property is currently permitted, and there is a change in ownership or management, this will require a name change only.

**35.14 Penalties and Fees.** The following penalties shall be assessed for violations of this Chapter:

**A.** A violation of s. 35.03 shall be punishable by a forfeiture of not less than Five Hundred Dollars (\$500), nor more than One Thousand Dollars (\$1,000) for each violation committed hereunder. In addition, the property owner and/or the property shall be ineligible to operate as a tourist rooming house for a period of twelve (12) months from the date of entry of judgment.

**B.** A violation of s. 35.12 shall be subject to the penalties set forth in Chapter 11 of the Village Municipal code.

**C.** Any other violation of any provision of this Chapter shall be punishable by a forfeiture of not less than One Hundred Dollars (\$100), nor more than Five Hundred Dollars (\$500) for each violation committed hereunder.

**D.** A violation of s. 35.12 may result in the suspension of the permit or the license as it applies to the property involved.

**E.** Each day a violation exists after receiving the violation notice and which becomes the building inspector's order shall constitute a separate violation of this Chapter.

**F.** In addition to the penalties set forth above, failure to permit the inspection of a premises subject to this ordinance by the Assistant Zoning Administrator, Building Inspector or Fire Inspector, or their designee, may result in the suspension of a permit or license.

**G.** Penalties set forth in this section shall be in addition to all other remedies of injunction, abatement or costs whether existing under this Chapter or otherwise.

**35.15 Enforcement.** The provisions of this ordinance shall be enforced by the Zoning Department and/or the Village Fire Chief or his designee. It shall be the duty of the Zoning Department to process applications, conduct inspections and investigate complaints of violations of this Chapter and/or the existence of a nuisance.

Passed: 4/14/2014 Ordinance 14-006

Ed Karas said that if the asking price for the property were a normal price and not going up and down for 8 years, then he would have purchased it.

Chris said that if approved and if CUP approvals are based on whether on the east or west side of Church Street, then the long-term goal would be to somehow separate the east and west zones, with a new or maybe with an overlay zone. Eddie Krause said he sort of agrees with Chris's comments, but disagrees at the same time, because if the city is going to rezone the area to change it, then it should all be matched. He said he pays taxes like everyone else, why should it be allowed on one side and not the other. Eddie took over property that was an abandoned and an eyesore for a long time and has made improvements. Eddie said he was willing to purchase the property next door as well, but at a reasonable price. Chris said he agreed with Eddie and made the following comments:

- ❖ The proper plan would be to expect the Downtown Revitalization to continue to the east and this area should be more of a tourism area.
- ❖ The city should not be changing the zoning that is set in place. He said it was set in place for a reason.

Delmore said there is nothing 'downtown' on the east end of the city and does not see how the downtown can develop there.

Motion by Delmore, seconded by Anchor recommend to council approve the Land Owner-Initiated Zoning Map Amendment Application from Gary Picha rezone Columbia Co., City of Wisconsin Dells Tax Parcel 1008.2, to amend the zoning code to allow a Funeral Home as a Conditional Use in the C-2 Commercial-downtown zoning district so the applicant can then apply for a Conditional Use Permit for a Funeral Home at 1101 Broadway contingent on the approval of the CUP and the applicant taking control of the property. Motion carried 4-1 with Lechnir opposing.

8. Motion by Delmore, seconded by Anchor recommend to council approve the Conditional Use Permit (CUP) application from Gary Picha to construct a Funeral Home at 1101 Broadway (Parcel 1008.2, Columbia Co). The parcel is zoned part C-2 Commercial-downtown and part C-1 Commercial-neighborhood. This is contingent on Zoning Amendment approval allowing a Funeral Home in C-2 Commercial-downtown through the CUP process contingent on the applicant taking control of the property and any parking issues that may arise are addressed to the satisfaction of the city. The zoning amendment would need to be approved to allow a Funeral Home in C-2 zoning through the CUP process. Motion carried 4-1 with Lechnir opposing.
9. Chris said there have been four requests for what the state would call a "Tourism Rooming House" which is the overnight use of a residential home as opposed to a hotel. Chris used an example that if Preissel's request was approved and if he chooses to sell the property, then the new owner would have to apply for a new permit. Lake Delton has an ordinance in place where they have a licensing and permitting process. The city has decided in the past not to address it specifically. Chris said Ald. Mor spoke of revisiting this. So far, the Commission has received applications from well-established businesses owners with good reputations in the community. Jerry Wolfram, who does fire inspections for Wisconsin Dells and Lake Delton, said he would like to see this included in the City Municipal Code Chapter 16. He said most that he has seen are run through a resort and thinks the resorts are doing a nice job. Motion by Walsh and seconded by Jones recommend to refer this to the Legislative Committee and make this part of the licensing process. Motion carried. Chris' recommendation was the same.
10. Referred to the next meeting is to review what is referred to the Plan Commission and review what is being decided at BID and Design Review Committees.
11. The next Plan Commission meeting is scheduled to be on **MONDAY**, August 8, 2016 at **6:00 pm**.
12. Motion by Anchor and seconded by Walsh to adjourn. Motion carried and the meeting adjourned at 6:04pm.

DRAFT - November 9, 2016

City of Wisconsin Dells

ORDINANCE NO. \_\_\_\_\_

The City of Wisconsin Dells, Adams, Columbia, Juneau and Sauk Counties, Wisconsin, does hereby ordain as follows:

SECTION I: PURPOSE

See Sections (1) and (2) below for finding and purpose.

SECTION II: PROVISIONS AFFECTED

A. Wisconsin Dells Code sec. 6.15 is created.

SECTION III: PROVISIONS AS AFFECTED:

**A. 6.15 USE/OCCUPANCY OF RIGHTS OF WAY**

(1) Findings.

- (a) In the exercise of governmental functions the City has priority over all other uses of the public rights-of-way. The City desires to anticipate and minimize the number of obstructions and excavations taking place to regulate the placement of facilities in the rights-of-way to ensure that the rights-of-way remain available for public services and are safe for public use, and to ensure that facilities are timely maintained, supported, protected or relocated to accommodate reconstruction or repairs. The taxpayers of the City bear the financial burden for the upkeep, maintenance and reconstruction of the rights-of-way and a primary cause for the early and excessive deterioration of its rights-of-way is the frequent use and excavation by persons who locate facilities therein.
- (b) The City finds increased use of the public rights-of-way and increased costs to the taxpayers of the City and that these costs are likely to continue into the foreseeable future.
- (c) The City finds that delays by occupants of the rights-of-way in maintaining, supporting, protecting or relocating facilities, if they effect public construction projects, have the potential to significantly increase public works projects costs borne by the taxpayers.

- (d) The City finds that occupancy and excavation of its rights-of-way causes costs to be borne by the City and its taxpayers, including but not limited to:
  - 1. Administrative costs associated with public right-of-way projects, such as registration, permitting, inspection and supervision, supplies and materials.
  - 2. Management costs associated with ongoing management activities necessitated by public rights-of-way users.
  - 3. Repair or restoration costs to the roadway associated with the actual excavation into the public right-of-way.
  - 4. Degradation costs defined as depreciation caused to the roadway in terms of decreased useful life, due to excavations into the public rights-of-way.

(2) Purpose.

- (a) Based on the foregoing facts, the City enacts this ordinance relating to administration of and permits to excavate, obstruct and/or occupy the public rights-of-way. This ordinance imposes reasonable regulations on the placement and maintenance of equipment currently within its rights-of-way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies.
- (b) The purpose of this ordinance is to provide the City a legal framework within which to regulate and manage the public rights-of-way, and to provide for the recovery of the costs incurred in doing so. This ordinance provides for the health, safety and welfare of the residents of the City as they use the right-of-way of the City, as well as to ensure the structural integrity of the public rights-of-way.

(3) Definitions. The following definitions apply in this ordinance.

- (a) "Applicant." Any person requesting permission to excavate, obstruct and/or occupy a right-of-way.

- (b) "City." The City of Wisconsin Dells, Wisconsin, a Wisconsin municipal corporation.
- (c) "Degredation." The decrease in the useful life of the paved portion of the right-of-way, excluding the sidewalk right-of-way, caused by an excavation of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation did not occur.
- (d) "Department." The Department of Public Works of the City.
- (e) "Emergency." A condition that: 1. poses a clear and immediate danger to life or health, or of a significant loss of property; or 2. requires immediate repair or replacement in order to restore service to a customer.
- (f) "Excavate." To dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.
- (g) "Facilities." All equipment owned, operated, leased or subleased in connection with the operation of a service or utility service, and shall include but is not limited to poles, wires, pipes, cables, underground conduits, ducts, manholes, vaults, fiber optic cables, lines and other structures and appurtenances.
- (h) "In", when used in conjunction with "right-of-way". Over, above, within, on or under a right-of-way.
- (i) "Local Representative." A local person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this Section.
- (j) "Occupy." To dwell or reside above, on, in, or below the boundaries of the public rights-of-way.
- (k) "Obstruct." To place any object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way.
- (l) "Permittee." Any Person to whom a permit to use, occupy, excavate or obstruct a Right-of-Way.

- (m) "Person." Corporation, company, association, firm, partnership, limited liability company, limited liability partnership and individuals and their lessors, transferees and receivers.
  - (n) "Public Utility." As defined in Wis Stats 196.01(5). (14)
  - (o) "Registrant." Any person who has registered with the City to have its facilities located in any right-of-way.
  - (p) "Repair." To perform construction work necessary to make the right-of-way useable for travel according to Department specifications, or to restore equipment to an operable condition.
  - (q) "Restore or Restoration." The process by which an excavated right-of-way and surrounding area, including pavement and foundation is reconstructed, per Department specifications.
  - (r) "Right-of-Way." The surface and space above and below an improved or unimproved public roadway, highway, street, bicycle lane and public sidewalk in which the City has an interest, including other dedicated rights-of-way for travel purposes.
- (4) Administration. The Director of Public Works or designee is responsible for the administration of the rights-of-way, and the related permits and ordinances.
- (5) Registration for Right-of-Way Occupancy.
- (a) Each person who has, or seeks to have, facilities located in any right-of-way shall register with the Department and pay the fee set forth in City fee schedule. Registration will consist of providing application information and paying a registration fee.
  - (b) No person may construct, install, maintain, repair, remove, relocate or perform any other work on, or use any equipment or any part thereof in any right-of-way unless that person is registered with the Department.
  - (c) Nothing herein shall be construed to repeal or amend the provisions of a City ordinance regulating constructing sidewalks or driveways or other similar activities. Persons performing such activities shall not be required to obtain any permits under this Chapter.

- (6) Registration Information. The information provided to the Department at the time of application shall include, without limitation:
- (a) Each registrant's name, Diggers Hotline registration certificate number, address and email address, if applicable, and telephone and facsimile numbers.
  - (b) The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.
  - (c) Reason for and a clear description of the proposed work, use, structure, or obstruction, and the exact location of said work, use, structure or obstruction.
  - (d) The requested dates and hours of work or placement of obstruction;
  - (e) Other local, state or federal approvals, if necessary;
  - (f) A Certificate of insurance.
  - (g) If the registrant is a corporation, a LLC or LLP, a copy of any certificate required to be filed under Wisconsin Statutes as recorded and certified by the Department of Financial Institutions.
  - (h) A copy of the registrant's certificate of authority from the Wisconsin Public Service Commission or other applicable state or federal agency, if the person is lawfully required to have such certificate from said commission or other state or federal agency.
  - (i) Sufficient evidence of the following health, welfare, and safety concerns:
    - 1. City infrastructure shall remain fully operational and it shall not be disturbed or altered unless permitted by the City;
    - 2. Drainage shall not be affected in the location; and

3. The placement of any structure or obstruction shall not present a safety concern, with the construction site being sufficiently lit (if applicable) or fenced and guarded (if applicable).
- (j) Execution of an indemnification agreement in a form prescribed by the Department.
  - (k) The registrant shall keep all of the information listed above current at all times by providing to the Department information as to changes within fifteen (15) working days following the date on which the registrant has knowledge of any change.
- (7) Registration Fee. The Department shall charge an annual Registration Fee, as specified in the city fee schedule to recover the costs incurred by the City for processing and updating registration information.
  - (8) Review of an Application for Right-of-Way User Registration:
    - (a) Applicant shall have a non-exclusive use of the premise.
    - (b) Granting the request shall not contribute to public expense.
    - (c) Applicant's use of the premise shall be in compliance with all local, state, or federal laws, and, applicant shall obtain all permits required by local, state, or federal authorities required for the use of the premises.
    - (d) Applicant shall not install any utility lines, equipment and/or facilities on private property without written consent of the owner, and shall verify parcel boundaries. Easement/access agreements shall be obtained for any City parcels not part of public rights-of way.
    - (e) A Right-of-Way User Registration shall not be construed as a waiver of the applicant's obligation to comply with other or more restrictive City ordinances.
    - (f) City infrastructure shall not be disturbed or altered unless otherwise permitted, and shall remain visible, accessible and operational. Any City infrastructure damaged shall be immediately reported to the Department of Public Works, be repaired to City standards, and inspected and approved by the Public Works Department at the expense of the applicant.
    - (g) Any construction, reconstruction, improvements or restoration of the public right-of-way after disturbance shall be consistent with City standards and all public rights-of-way shall be restored to their original condition upon completion of the work, activities, or installation, unless otherwise permitted.

- (h) Drainage shall not be adversely affected due to the installation of any utility lines, structures, equipment or facilities.
  - (i) Placement of obstructions during installation and all work and activities shall:
    - 1. Not present a public safety concern;
    - 2. Be sufficiently lit at night (if required by permit) so as to be in full view of the public from all directions;
    - 3. Be fenced or guarded (if required by permit) in a manner which insures public safety; and
    - 4. Be consistent with any limitations and conditions set forth in the approval.
  - (j) The applicant shall indemnify and hold the City harmless for any loss/liability, claims, or damage to any person or property arising from:
    - 1. Applicant's installation, maintenance and/or operation under the approved registration;
    - 2. Vandalism;
    - 3. Interruption in any service from any cause; and
    - 4. Fire, water, rain, snow, steam, sewerage, gas or odors, from any source.
- (9) Permit to Occupy/Excavate in Right-of-Way Required.
- (a) Occupancy/Excavation Permit Required. Except as otherwise provided in this Section or other provisions of the Ordinances of Wisconsin Dells, no person shall occupy or excavate any right-of-way without first having obtained a permit from the Department. A copy of any permit issued under this Section shall be made available at all times by the Permittee at the indicated work site and shall be available for inspection by the Department upon request.
  - (b) Occupancy/Excavation Permit Application. Application for a permit shall be made to the Department. Permit applications shall contain, and will be

considered complete only upon compliance with the requirements of the following provisions:

1. Registration with the Department as required by this Section.
2. Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all existing and proposed facilities that are part of applicant's proposed project.
3. Payment of all money due to the City for:
  - a. Applicable permit fees and costs as set forth below;
  - b. unpaid fees or costs due for prior excavations; or
  - c. any loss, damage, or expense suffered by the City because of applicant's prior excavations of the rights-of-way or any emergency actions taken by the City.

(10) Occupy/Excavation Permit Fee.

- (a) Occupy/Excavation Permit Fee shall be established by the Department in an amount sufficient to recover the costs incurred by the City. This fee shall recover administrative and inspection costs, as well as degradation costs should the permittee choose to repair rather than restore the right-of-way. Payment of said fees shall be collected prior to issuance of the permit. However, the Director of Public Works may, with the advice and consent of the Common Council, establish a fee collection process from governmental agencies and private utilities in order to expedite the permitting system and recognize that certain excavations are deemed emergencies.
- (b) Waiving of Fees. Fees shall not be waived unless the work involved is a direct result of the Director of Public Works's demand that a structure owned by a utility be removed or relocated or unless waived by the Common Council on appeal.
- (c) Fee Schedule. The minimum fee for each excavation permit shall be thirty dollars (\$30); plus an additional ten dollars (\$10) per 100 square feet for excavation and thirty cents (\$.30) per lineal foot for boring. Excavation

permits for utility work in new subdivisions and within the limits of public works projects, where the work is undertaken prior to the installation of pavement, shall only be charged the minimum fee. The fee for a permit issued after commencing work, except in cases of emergency as determined by the Engineer, shall be double the fees set forth herein, This permit fee shall be in addition to any forfeiture provided elsewhere in this ordinance.

- (d) For those permit applications which provide for a substantial undertaking of excavation within the public right-of-way attended by disruption of the general public and traffic, the Director of Public Works is authorized to assess the actual cost of the City employee's time engaged in the review and inspection of the anticipated work multiplied by a factor determined by the respective department to represent the City's cost for statutory expense, benefits, insurance, sick leave, holidays, vacation and similar benefits, overhead and supervision, said factor not to exceed 2.0, plus the cost of mileage reimbursed to City employees which is attributed to the work, plus all consultant fees associated with the work at the invoiced amount plus ten percent (10%) for administration.
  - (e) City Exemption. The City and its contractors shall not pay degradation fees for excavations due to general government functions.
  - (f) Permit fees paid for a permit that the Department has revoked are not refundable.
- (11) Right-of-Way Repair/Restoration.
- (a) The Permittee shall be required to repair the public right-of-way to Department specifications, subject to inspection and acceptance by the Department, and to pay a degradation fee unless the Permittee elects to restore the right-of-way. In addition to repairing its own work, the Permittee must repair the general area of the work, and the surrounding areas, including the paving and its foundations, to the specifications of the Department. The Department shall inspect the, area of the work and accept the work when it determines that proper repair has been made, per specifications of the Department.
  - (b) Guarantees. The Permittee guarantees its work and shall maintain it for thirty-six (36) months following its completion. During this period it shall, upon notification from the. Department, correct all work to the extent

necessary, using the method required by the Department. Said work shall be completed within ten (10) calendar days of the receipt of the notice from the Department, not including days during which work cannot be done because of circumstances constituting force majeure.

- (c) Failure to Repair/Restore. If the Permittee fails to repair/restore the right-of-way in the manner and to the condition required by the Department, or fails to satisfactorily and timely complete all work required by the Department, the Department at Its option may do such work. In that event the Perinittee shall pay to the City, within thirty (30) days of billing, the cost of repairing/restoring the right-of-way.
  - (d) Degradation. The general formula for computing the degradation fee shall be the cost per square yard for street overlay and seal coat multiplied by the appropriate depreciation rate for that street multiplied by the area of the patch. The area or the patch shall be calculated by adding one foot to each side of the actual street cut. Degradation fee schedule is available upon request from the Director of Public Works.
  - (e) Restoration in Lieu of Repair and Degradation. The Permittee may elect to restore the excavation and surrounding pavement in lieu of repair and a degradation fee. The restoration shall be in accordance with the Standard Specifications for Public Works Construction and the plans and specifications of the Department.
- (12) Inspection.
- (a) Notice of Completion. When the work under any permit hereunder is begun and completed, the Permittee shall notify the Department.
  - (b) Site Inspection. Permittee shall make the work site available to the Department and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of work.
  - (c) Authority of Department. At the time of inspection, the City may order the immediate cessation of any work which poses a threat to the life, health safety or well being of the public. The City may issue an order to the registrant or Permittee for any work that does not conform to the applicable City standards, conditions or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the registrant or Permittee

shall present proof to the Department that the violation has been corrected. If such proof has not been presented within the required time, the Department may revoke the permit.

- (13) Ongoing Management Fees. The cost of trimming trees around facilities is an ongoing cost to the City. The specific cost will be determined and a fee to offset those costs may be assessed in the future.
- (14) Compliance with Other Laws. Obtaining a permit to excavate and/or occupy the right-of-way does not relieve Permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by any other City, County, State, or Federal rules, laws or regulations. A permittee shall comply with all requirements of local, state and federal laws. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.
- (15) Revocations, Suspensions, Refusals to Issue or Extend Permits.
  - (a) The Department may refuse to issue a permit or may revoke, suspend or refuse to extend an existing permit if it finds any of the following grounds:
    1. The applicant or Permittee is required to be registered and has not done so;
    2. Issuance of a permit for the requested date would interfere with an exhibition, celebration, festival or other event;
    3. Misrepresentation of any fact by the applicant or Permittee;
    4. Failure of the applicant or Permittee to maintain required bonds and/or insurance;
    5. Failure of the applicant or Permittee to complete work in a timely manner;
    6. The proposed activity is contrary to the public health, safety or welfare;

7. The extent to which right-of-way space where the permit is sought is available;
  8. The competing demands for the particular space in the right-of-way;
  9. The availability of other locations in the right-of-way or in other rights-of-way for the facilities of the Permittee or applicant;
  10. The applicability of ordinances or other regulations of the right-of-way that affect location of facilities in the right-of-way;
- (b) Discretionary Issuance. The Department may issue a permit where issuance is necessary (a) to prevent substantial economic hardship to a customer of the Permittee or applicant, or (b) to allow such customer to materially improve its utility service, or (c) to allow the Permittee or applicant to comply with state or federal law or City ordinance or an order of a court or administrative agency.
- (c) Appeals. Any person aggrieved by a decision of the Department revoking, suspending, refusing to issue or refusing to extend a permit may file a request for review with the City Board. A request for review shall be filed within ten (10) days of the decision being appealed. Following a hearing, the City Board may affirm, reverse or modify the decision of the Department.
- (16) Work Done Without a Permit.
- (a) Emergency Situations. Each registrant shall immediately notify the City by verbal notice on an emergency phone number provided by the City of any event regarding its facilities that it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Within two business days after the occurrence of the emergency the registrant shall apply for the necessary permits, pay the fees associated therewith and otherwise fully comply with the requirements of this Chapter.
  - (b) If the City becomes aware of any emergency regarding a registrant's facilities, the Department may attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. The City may take whatever action it deems necessary to protect the public

safety as a result of the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.

- (c) Non-Emergency Situations. Except in an emergency, any person who, without first having obtained the necessary permit, excavates a right-of-way must subsequently obtain a permit, and shall in addition to any penalties prescribed by ordinance, pay double the normal fee for said permit, pay double all the other fees required by this Chapter or other Chapters of the General Ordinances of the City of Random Lake, deposit with the Department the fees necessary to correct any damage to the right-of-way and comply with all of the requirements of this Chapter.

(17) Location of Facilities.

- (a) Undergrounding. Unless in conflict with state or federal law, except when existing aboveground facilities are used, the installation of new facilities and replacement of old facilities shall be done underground or contained within buildings or other structures in conformity with applicable codes.
- (b) Limitation of Space. The Department may prohibit or limit the placement of new or additional facilities within the right-of-way if there is insufficient space to accommodate all of the requests of persons to occupy and use the right-of-way. In making such decisions, the Department shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but may prohibit or limit the placement of new or additional facilities when required to protect the public, health, safety or welfare.

(18) Relocation of Facilities.

- (a) A registrant must, promptly and at its own expense, permanently remove and relocate its facilities in the right-of-way whenever the City, acting in its governmental capacity, requests such removal and relocation. If requested, the registrant shall restore the right-of-way.
- (b) Notwithstanding the foregoing, a person shall not be required to remove or relocate its facilities from any right-of-way which has been vacated in favor of a non-governmental entity unless and until the reasonable costs thereof are first paid to the person therefore.

(19) Interference with Other Facilities during Municipal Construction.

- (a) When the City performs work in the right-of-way and finds it necessary to maintain, support, shore or move the registrant's facilities, the City shall notify the local representative. The registrant shall meet with the City's representative within twenty-four (24) hours and coordinate the protection, maintenance, supporting and/or shoring of the registrant's facilities. The registrant shall accomplish the needed work within seventy-two (72) hours unless the City agrees to a longer period.
- (b) In the event that the registrant does not proceed to maintain, support, shore, or move its facilities, the City may arrange to do the work and bill the registrant, said bill to be paid within thirty (30) days.

(19) Abandoned Facilities.

- (a) Discontinued Operations. A registrant who has determined to discontinue its operations in the City must either:
  - 1. Provide information satisfactory to the Department that the registrant's obligations for its facilities under this Section have been lawfully assumed by another registrant; or
  - 2. Submit to the Department a proposal and instruments for dedication of its facilities to the City. If a registrant proceeds under this clause, the Village may, at its option:
    - a. accept the dedication for all or a portion of the facilities; or
    - b. require the registrant, at its own expense, to remove the facilities in the right-of-way at ground or above ground level; or
    - c. require the registrant to post a bond or provide payment sufficient to reimburse the City for reasonable anticipated costs to be incurred in removing the facilities.

However, the registrant who has unusable and abandoned facilities in ant right-of-way shall remove it from that right-of-way withing two years, unless the Department waives this requirement.

- (b) **Abandoned Facilities.** Facilities of a registrant who fails to comply with this section, and which for two (2) years, remains unused shall be deemed to be abandoned. Abandoned facilities are deemed to be a nuisance. In addition, to any remedies or rights it has at law or in equity the City may are its option:
1. Abate the nuisance,
  2. Take possession of the facilities, or
  3. Require removal of the facilities by the registrant, or the registrant's successor in interest.
- (c) **Public Utilities.** This section shall not apply to a public utility, as defined by Section 196.01(5) Wis. Stats, that is required to follow the provision of Section 196.81, Wis. Stats. **Note: Check This**
- (20) **Reservation of Regulatory and Police Powers.** The City, by the granting of a permit to excavate, obstruct and/or occupy the right-of-way, or by registering a person under this Chapter does not surrender or in any extent lose, waive, impair, or lessen the lawful powers and rights, which it has now or maybe hereafter granted to the City under the Constitution and statutes of the State of Wisconsin to regulate the use of the right-of-way by the permittee; and the permittee by its acceptance of a permit to excavate, obstruct and/or occupy the right-of-way or of registration under this Chapter agrees that all lawful powers and rights, regulatory powers, or police power, or otherwise as are or the same may be from time to time vested in or reserved to the City, shall be in full force and effect and subject to the regulatory and police powers of the City to adopt and enforce general ordinances necessary to the safety and welfare of the public and is deemed to agree to comply with all applicable general law, and ordinances enacted by the City pursuant to such powers.
- (21) **Severability.** If any section, subsection, sentence, clause, phrase, or portion of this Chapter is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

- (22) Penalty. Any person who violates this ordinance or fails to comply with the provisions of this ordinance shall be subject to a forfeiture of not less than one hundred twenty dollars (\$120) nor more than six hundred dollars (\$600). Each day such violation or failure to comply continues shall be considered a separate offense.

SECTION IV: VALIDITY:

Should any section, clause or provision of the Ordinance be declared by the Courts to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

SECTION V: CONFLICTING PROVISION REPEALED:

All ordinances in conflict with any provision of this Ordinance are hereby repealed.

SECTION VI: EFFECTIVE DATE:

This Ordinance shall be in force from and after its introduction and publication as provided by statute.

SECTION VII: PART OF CODE:

This Ordinance becomes part of the City of Wisconsin Dells Code, Chapter 6.

\_\_\_\_\_  
Brian R. Landers, Mayor

\_\_\_\_\_  
Nancy L. Holzem, Clerk

INTRODUCED: \_\_\_\_\_  
PUBLISHED: \_\_\_\_\_  
PASSED: \_\_\_\_\_