

Chapter 152. Licenses and Permits

§ 152-21. Weights and measures permit.

[Added 12-11-2007 by Ord. No. 2369]

- A. Purpose. This section adopts the State of Wisconsin Weights and Measures Regulations and establishes a Weights and Measures Program wherein any person or entity subject to said regulations must obtain a license in order for the City to comply with and recoup the costs of enforcing said regulations. This section is adopted pursuant to the provisions of Chapter 98, Wis. Stats.
- B. Application of state codes. Except as otherwise specifically provided in this section, the provisions of Chapter 98, Wis. Stats., Weights and Measures, and Chapters ATCP 90, 91 and 92 of the Wisconsin Administrative Code are hereby adopted and by reference made a part of this section as though fully set forth herein. Any act required to be performed or prohibited by any statute or code incorporated herein by reference is required or prohibited by this section. Any future amendments, revisions or modifications of the statutes and codes incorporated herein are intended to be made a part of this section.
- C. State contract; appointment of inspectors; compliance required.
- (1) State contract. In order to assure compliance with the requirements of the State of Wisconsin related to the inspection and certification of weights and measures, the City shall contract with the State of Wisconsin Department of Agriculture, Trade and Consumer Protection, pursuant to § 98.04(2), Wis. Stats., in lieu of the establishment of a department of weights and measures.
 - (2) Appointment of inspectors. The provisions of the contract set forth in Subsection **C(1)** shall provide for the enforcement of the statutes and regulations set forth herein, and the City hereby grants the authority and duties of sealers and inspectors required by this section to the State of Wisconsin Department of Agriculture, Trade and Consumer Protection.
 - (3) Compliance required. All persons and entities required to be licensed hereunder shall comply with the enforcement of the statutes and regulations set forth herein, shall comply with the orders and inspections of the inspectors appointed herein, and shall comply with the licensing requirements set forth herein.
- D. Definitions. As used in this section, the following terms shall have the meanings indicated:

WEIGHTS AND MEASURES

Weights and measures of every kind, instruments and devices for weighing and measuring, and any appliances and accessories used with any or all such instruments and devices, except meters for the measurement of electricity, gas (natural and manufactured) or water when the same are operated in a public utility system. Weights and measures shall include devices used or employed in establishing the size, quantity, extent, area or measurement of quantities, things, produce or articles for sale, hire or award, or in computing any basic charge or payment for services rendered on the basis of weight or measure and shall include, but not be limited to, commodities, liquid measuring devices, scales, weighing, measuring and price verification systems, timing devices and linear measuring devices.

WEIGHTS AND MEASURES PROGRAM

The program that includes administration and enforcement of this section; Chapter 98, Wis. Stats.; applicable Wisconsin Administrative Code provisions; and any related actions.

E. Weights and measures license required.

- (1) License requirements. Except as provided in Subsection **E(2)**, no person or entity shall use, operate or maintain any commercial weights and measures as defined in this section unless the person or entity is licensed by a weights and measures license issued pursuant to the provisions of this section.
- (2) Exemptions. Sales by a person registered as a direct seller or by a holder of a farmer's market, vendor vehicle or special event permit are exempt from licensing under this section, but if any person exempted herein is required by the state to hold a state certificate of examination by the Sealer of Weights and Measures, a copy of said certificate shall be provided to the City with his or her application for direct seller registration or a farmer's market, vendor vehicle or special events permit.

F. Application for license. An application for a weights and measures license shall be made in writing on a form provided by the City Clerk and shall be signed by the owner of the commercial business or by its authorized agent. Such application shall state the type of the business, the type and number of weighing, measuring and scanning devices used by the business, the location of the devices, the number of check-out lanes present on the premises, the applicant's full name, post office address and telephone, and whether such applicant is an individual, partnership, limited liability company, corporation or other entity. If the applicant is a partnership, the application shall state the names and addresses of each partner. If the applicant is a corporation or limited liability company, the application shall state the names and addresses of all members, officers and agents of the applicant, including the registered agent thereof.

G. Issuance of licenses and fees. Upon compliance with this section, the City Clerk shall issue a license to the applicant upon payment of the annual license fee set by the Common Council. Each store or other business shall require a separate license.

H. License term.

- (1) A license issued under this section shall expire on June 30 of each year. Except as provided in Subsection **H(2)**, the license fee shall not be prorated for a partial year.
- (2) The initial license issued to businesses existing on the effective date of this section shall be for six months, effective on January 1, 2008, and expiring on June 30, 2008, and the license fee shall be prorated.

I. Enforcement for nonrenewal. It shall be the duty of the City Clerk to notify appropriate City officials and to order the immediate enforcement of the provisions of this section in cases involving a failure to renew a weights and measures license. A licensee shall be prohibited from engaging in any business involved in weights and measures until such time as a valid license has been obtained under the provisions of this section.

J. Fees assessment.

- (1) Annual assessment. The Common Council shall annually assess fees to each licensee based on the number and type of weights and measures devices it operates as of the date of licensure or the date of renewal. The total of the fees assessed and collected under this subsection shall not exceed the actual costs of the weights and measures contract between the City and the state.
- (2) Clerk to prepare assessment schedule. The City Clerk shall at least annually prepare a proposed schedule of assessments which shall be based upon the state contract charges and the number of weights and measures devices being operated, which schedule shall be submitted to the Common Council. A copy of the proposed schedule, together with notice of

the date and time at which the Common Council will consider the assessments, shall be mailed to each licensee.

- (3) Common Council to determine assessment. Not less than 10 days after the mailing set forth in Subsection **J(2)**, the Common Council shall consider the Clerk's proposed schedule of assessments and determine the schedule of assessments on a reasonable basis. The City Clerk shall mail to each licensee an invoice for the amount of the fee assessment to the licensee as determined by the Common Council, and each licensee shall pay the fee assessed within 30 days after the date the notice is mailed.
 - (4) Failure to pay assessment. If the assessed fee is not paid within 30 days of the date of the mailing of the invoice, an additional administrative collection charge of 10% of the total assessment shall be added to the amount due, plus interest shall accrue on the assessment at the rate of 1.5% per month or fraction thereof until paid. To the extent permitted by law, if the licensee is the owner of the real estate where the licensed business is located, any delinquent assessment shall be extended upon the current or the next tax bill as a special charge against the real estate premises for current services. No license shall be issued or renewed under this section if the licensee is delinquent in the payment of a fee assessed under this section.
 - (5) Mailing of notices. Schedules, notices and invoices shall be considered mailed to a licensee when mailed by first class mail, postage prepaid, to the licensee at the licensee's address as shown on the application form.
 - (6) Change of ownership. If the ownership of a commercial business licensed under this section is transferred during a license year, the owner of the business as of July 1 of the license year shall be liable and responsible for the payment of the fees assessed under this section.
- K. Violations. In addition to any other remedy, any person who fails to comply with the provisions of this section shall, upon conviction thereof, be subject to the penalties as set forth in § **1-18** of this Code. Each day a violation exists or continues shall constitute a separate offense.