

ORDINANCE NO. 2015-06

**TOWN OF YORKVILLE
RACINE COUNTY, WISCONSIN**

AN ORDINANCE TO AMEND SECTIONS 6-51, 6-143, 10-124, 10-143, 10-145, 10-291, 14-35, 14-101, 14-102, 14-176, 14-249, 14-272, 14-324, 14-353, 14-483, 14-664, 14-784, 14-829, 14-1006, 34-205, 38-82, 46-65, 46-68, 46-69, 54-53, 54-218 AND 54-219 OF THE TOWN OF YORKVILLE CODE OF ORDINANCES REGARDING MISCELLANEOUS FEES

THE TOWN BOARD OF THE TOWN OF YORKVILLE, RACINE COUNTY, WISCONSIN, DO ORDAIN AS FOLLOWS:

1. That Section 6-51 entitled Dog licenses of the Code of Ordinances for the Town of Yorkville relating to dog licenses be, and hereby is, amended to read as follows:

“Sec. 6-51. Dog licenses.

(a) *Generally.*

- (1) A person who owns a dog, which is or will become five months of age or older during any license year, shall obtain a license for each such dog every license year by making application to the clerk-treasurer under the terms and conditions contained in this section.
- (2) The dog license tax shall be paid according to the schedule of fees on file in the town clerk's office and may be revised by town board resolution.
- (3) No dog license shall be issued unless the applicant presents a valid certificate of vaccination obtained in accordance with section 6-111.

(b) *License year.* The license year under this article commences on January 1 and ends on the following December 31.

(c) *Late fee.* The clerk-treasurer shall, in addition to the license tax provided for in this section, assess and collect a late fee as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution for every application for a license for a dog more than five months of age, unless such application is made prior to April 1 of any calendar year or unless such application is made within 30 days of acquiring ownership or a licensable dog, or if the owner failed to obtain a license on or before the dog reached a licensable age.”

2. That Section 6-143 entitled License fee of the Code of Ordinances for the Town of Yorkville relating to potbellied pig license fees be, and hereby is, amended to read as follows:

“Sec. 6-143. License fee.

Any applicant for a license for a potbellied pig shall pay an annual license fee as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution.”

3. That Section 10-124 entitled Appeals of the Code of Ordinances for the Town of Yorkville relating to building permits be, and hereby is, amended to read as follows:

“Sec. 10-124. Appeals.

- (a) Any person whose application for a building permit for the use of a new material or method of construction has been refused by the building inspector or who may consider that the provisions of this code do not cover the point raised or that any particular provision would cause a manifest injury to be done, may appeal to the town board by serving written notice on the building inspector in which it shall be stated that the applicant desiring to use the alternate materials or types of construction shall guarantee payment of all expenses for necessary tests made or ordered by the town board. Such notice shall be at once transmitted to the town board, which shall arrange for a hearing on the particular point raised.
- (b) Such written notice shall be accompanied with a sum as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution, payable to the building inspector. If the appeal is denied, such fees shall be retained by the town. Otherwise, the fee shall be returned to the appellant.”

4. That Section 10-143 entitled Bond of the Code of Ordinances for the Town of Yorkville relating to building permits be, and hereby is, amended to read as follows:

“Sec. 10-143. Bond.

- (a) Prior to the granting of any building permit for any new residential, commercial, industrial or institutional facilities or structures or for the remodeling of any such existing facilities or structures which in the judgment of the building inspector will require substantial equipment or materials, the applicant shall furnish a bond in a sum as provided in this section and as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution. Such bond shall be in the form of cash or a letter of credit from an institution and in a form acceptable to the town.
- (b) Such bond shall guarantee:
 - (1) Any damage occurring during the period of construction to the public road or roads on which the property fronts, including the roadway ditches, shall be repaired and restored to the condition prior to such construction.

- (2) All required culverts and all other required drainage structures or appurtenances are of the required size, gauge, class or length, are properly installed at the required elevations and locations and are in like-new and undamaged condition.
 - (3) All required ditches, swales, drain tiles, drainage easements and waterways located within the involved parcel or within the town road rights-of-way lying adjacent to the involved parcel are graded to the proper gradients and side slopes, lie at the required elevations and locations and are covered with healthy growing grass.
 - (4) All rubbish, debris and unused materials shall be removed from the premises.
- (c) All such work shall be completed as above provided within 120 days after issuance of the occupancy permit with respect to such premises. If such work is not so completed within such 120-day period, the town may cause such work to be completed in accord with this section and may charge the bond for any such costs. The balance of such bond shall be refunded to the applicant. If the bond is inadequate to pay for all such costs, the applicant shall pay such amount to the town on demand. If the applicant fails to pay such amount, the town may impose a special charge against the property pursuant to Wis. Stats. § 66.0703.
 - (d) After an occupancy permit is issued by the town building inspector and the four requirements set forth in subsection (b) of this section have been met, the applicant may apply for the refund of the balance of the cash bond or the release of the letter of credit.
 - (e) The term "applicant" as used in this section shall be deemed to be the person, partnership or corporation who signs the application for a building permit. The applicant shall be responsible for the duties specified under this section. The applicant may not assign his rights or duties under this section."

5. That Section 10-145 entitled Street or road occupancy permit of the Code of Ordinances for the Town of Yorkville relating to street or road occupancy permits be, and hereby is, amended to read as follows:

“Sec. 10-145. Street or road occupancy permit.

- (a) Before placing any stone, brick, sand, dirt, gravel, cement, lumber, planks, boards or other machinery or any hoisting machine, building material, barrels or mortar box upon any sidewalk, street, road or public grounds within the town, a permit shall be first obtained from the building inspector by the party desiring to place such material, machinery, barrel or mortar box upon the sidewalk.
- (b) No fee shall be charged for such permit for the first 15 days following the date of issuance but after the expiration of such 15 days a fee shall be charged as established by resolution of the town board from time to time.

- (c) Such permit shall expire at the end of a reasonable length of time which shall be specified in the permit; upon good cause shown, the building inspector may extend any such permit from time to time as may be reasonably required upon written application made to the building inspector for that purpose.
- (d) Such permit shall not authorize the use of more than one-third of the highway between curblines opposite the premises of the person for whom the proposed building permit is granted or opposite the premises for which such permit is requested and shall not authorize the placing of any such material or machinery within ten feet from the track of any railway within the town, except where the street or road or such portion of the highway is occupied by double track such portion may be occupied as the building inspector may determine can be occupied with safety to the public. No such permit shall be issued where the placing of any such material or machinery or other thing upon the street, road or public ground shall unreasonably interfere with the public safety and convenience or where there is sufficient room for such material or machinery on the same lot or premises which is accessible from any street, alley or road. No more than one-third of the highway between curblines shall in any event be occupied for the placing or storing of any such material, machinery or other thing and no part of the sidewalks, parkway or curb shall be utilized for the placing or storage of building materials.
- (e) All materials placed upon any street, alley or road shall be piled in a compact form and in case of permanently improved streets or roads, there shall be placed a level plank floor under all brick, tile, stone or cement blocks. All accumulations of rubbish upon the sidewalk, street, alley or road shall be cleaned up each day at the close of working hours and also on the expiration of the permit. If construction is completed before the permit expires, then on the completion of the work all material and rubbish of any kind shall be removed and the sidewalk, street, alley or road left in good condition, clean and in good repair.
- (f) The persons to whom any such permit shall be granted shall cause such material or machinery placed in the street, alley or road to be properly guarded by day and each separate pile of material properly guarded by night, lighted by a red light in such manner as to warn all persons traveling upon the sidewalk, street, alley or road of the presence of such material or machinery.
- (g) If any such material or machinery shall not be removed from the street, road, alley or public grounds within the time therein required, the building inspector shall cause such material or machinery to be removed and the cost thereof shall be charged against and collected from the owner of the premises for whose benefit such permit was issued and the person obtaining such permit shall be liable also for the penalty prescribed for a violation of the provisions of this chapter.
- (h) Any material or machinery or other thing placed in a street, road, alley or public grounds shall be removed upon 24-hour notice given by the building inspector where such removal is necessary in order to repair, oil or otherwise improve such

street, road, alley or public grounds or to lay water, sewer or other service pipes therein.

- (i) Application for a permit to place material, machinery or other things connected with building purposes in a street, road, alley or public ground shall be in writing and shall describe the premises by lot, block, street and street number, if any, in front of which such material, machinery or other thing connected with building purposes is desired to be placed and shall specify the character of the material for which the permit is desired.
- (j) Before a permit is granted, the applicant shall execute to the town and deliver to the building inspector a bond of undertaking in a sum as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution with surety or sureties to be approved by the town board conditioned to save the town harmless from all liability which may be incurred by the deposit or maintenance of such material, machinery or other things connected with building purposes in the street, road, alley or public ground by the applicant or by his contractors, servants, agents or employees, whether such material, machinery or other thing shall be placed within or beyond the limit specified by this chapter."

6. That Section 10-291 entitled Bond requirement of the Code of Ordinances for the Town of Yorkville relating to moving buildings be, and hereby is, amended to read as follows:

"Sec. 10-291. Bond requirement.

Before a permit to move any building is granted by the building inspector, the party applying for the permit shall give a bond in a sum as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution with good and sufficient securities to be approved by the town board, conditioned among other things that such party shall save and indemnify judgments, costs and expenses which may in any way accrue against the town and keep the town harmless against all liabilities, judgments, costs and expenses in consequence of the granting of such permits."

7. That Section 14-35 entitled Enumerated businesses and fees of the Code of Ordinances for the Town of Yorkville relating to enumerated businesses and fees be, and hereby is, amended to read as follows:

"Sec. 14-35. Enumerated businesses and fees.

A license shall be required for each of the following businesses or activities, which shall be for one year unless otherwise indicated. The annual fee for such licenses shall be on file in the town clerk's office and may be revised by town board resolution.

- (1) Auction sales;
- (2) Cigarettes;

- (3) Fermented malt beverages:
 - a. Retail Class A;
 - b. Retail Class B;
 - c. Picnic;
 - d. Wholesaler's;
 - e. Operator's;
 - f. Transfer fee;
- (4) Fireworks;
- (5) Intoxicating liquor:
 - a. Retail Class A;
 - b. Retail Class B;
 - c. Retail Class C;
- (6) Junk dealer's;
- (7) Massage establishments;
- (8) Nonintoxicating beverages;
- (9) Peddler's, canvasser's, solicitor's and transient merchant's;
- (10) Pool, billiard halls and bowling alleys;
- (11) Dance halls;
 - a. Class A;
 - b. Class B;
 - c. Class C;
 - d. Special permit;
- (12) Public shows;
- (13) Quarry, gravel pit, dump, etc.:

- a. Operator's;
 - b. Owner's;
- (14) Gaming machines:
- a. Electronic gaming machines;
 - b. Other amusement devices;
- (15) Adult-oriented establishments:
- a. New;
 - b. Renewal;
- (16) Wireless telecommunications towers and antennas:
- a. Tower conditional use permit;
 - b. Antenna site plan review.”

8. That Section 14-101 entitled Required; fees of the Code of Ordinances for the Town of Yorkville relating to alcohol retail licenses be, and hereby is, amended to read as follows:

“Sec. 14-101. Required; fees.

No person shall engage in any licensed activities as set forth in this section without first obtaining the appropriate license. The classes of licenses and fees are:

- (1) Intoxicating liquors. Licenses to sell, deal or traffic in intoxicating liquors are:
- a. Retail Class A license.
 - 1. A retail Class A license shall permit the holder to sell, deal and traffic in intoxicating liquors only in original packages or containers, and consumed off the licensed premises. The annual fee shall be as stated in section 14-35 and shall be paid on or before July 1 of each license year.
 - 2. Licenses may be granted which expire on June 30 each year upon payment of a proportion of the annual license fee as the number of months, or fraction of a month, remaining until June 30 each year bears to 12.
 - b. Retail Class B license.

1. A retail Class B licensee shall sell, deal and traffic in intoxicating liquors consumed by the glass only on the licensed premises, and in the original package or container, in multiples not to exceed four liters at any one time, consumed off the licensed premises, except that wine may be sold in the original package or otherwise in any quantity consumed off the premises. The annual fee for such license shall be paid on or before July 1 of each license year. The annual fee for such license shall be as stated in section 14-35
 2. Licenses may be granted which expire on June 30 of each year upon payment of a proportion of the annual license fee as the number of months, or fraction of a month, remaining until June 30 each year bears to 12.
 3. No retail Class B liquor license shall be issued to any person who does not have or is not issued a retail Class B license for the sale of fermented malt beverages.
- c. Semiannual license. Licenses may be issued at any time for a period of six months in any calendar year for which one-half of the annual license fee shall be paid. Such six-month licenses shall not be renewable during the calendar year in which issued.
- (2) Fermented malt beverages. The licenses to sell, deal or traffic in fermented malt beverages are as follows:
- a. Wholesaler's license. A wholesaler's license shall authorize sales of fermented malt beverages only in original packages or containers to dealers, not to be consumed in or about the premises where sold. The annual fee for such a license shall be as stated in section 14-35
 - b. Retail Class A license. A retail Class A license authorizes sales of fermented malt beverages only for consumption away from the premises where sold and in the original packages, containers or bottles. The annual fee for such license shall be as stated in section 14-35 and shall be paid on or before July 1 of each license year.
 - c. Retail Class B license.
 1. A retail Class B license shall authorize the holder to sell fermented malt beverages either to be consumed on the premises where sold, or away from such premises. The holder of retail Class B license may also sell beverages containing less than one-half of one percent of alcohol by volume without obtaining a special license to sell such beverages under article VII of this chapter. The annual fee for such license shall be as stated in section 14-35 and shall be paid on or before July 1 of each license year.

2. The licenses may be issued at any time for a period of six months in any calendar year for which three-quarters of the license fee shall be paid. Such six-month licenses shall not be renewable during the calendar year in which issued.
- d. Retail Class B (picnic) licenses. A retail Class B (picnic) license may be issued to bona fide clubs, fair associations or agricultural societies, lodges or societies that have been in existence for not less than six months prior to the date of application, or to posts now or hereafter established, of veteran's organizations, authorizing them to sell fermented malt beverages at a particular picnic or similar gathering, or at a meeting of any such post or during a fair conducted by such fair association or agricultural societies. The annual fee for such license shall be as stated in section 14-35.
- (3) Provisional retail licenses. A provisional retail license authorizes only the activities that the type of retail license applied for authorizes.
- a. Qualifications. The town clerk shall, without prior town board approval, issue a provisional retail license to a person who has applied for a Class "A", Class "B", "Class A", or "Class B" license, as those terms are defined in the state statutes, provided that, based upon the information contained in the application, the person meets the general qualifications contained in this chapter of the Code and Wis. Stat. Ch. 125, for the issuance of a license relating to alcohol beverages, as well as any additional qualifications for the issuance of the specific retail license for which the applicant has applied. The clerk may not issue a provisional "Class B" license if the town's quota under Wis. Stat. § 125.51(4), prohibits the town from issuing a "Class B" license. No person may hold more than one provisional retail license per type of license per year.
 - b. Application fee. The fee for a provisional retail license shall be as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution, which shall be nonrefundable and shall not apply toward the retail license for which the applicant has applied.
 - c. Duration. A provisional retail license expires 60 days after its issuance or when the applicant's application for the Class "A", Class "B", "Class A", or "Class B" license is issued or denied, whichever is sooner. The clerk shall revoke the provisional retail license if it is discovered that the holder of the license made a false statement on the application.
 - d. Conditions. Notwithstanding paragraph a. of this subsection, provisional retail licenses shall be issued only:
 1. For transfers of existing liquor licenses at existing locations; or
 2. When the applicant's retail license has been approved by the town board, excepting that the applicant has not successfully completed a responsible beverage server training course, in which case the

applicant must provide proof that he or she is enrolled in such a course in order to receive a provisional license under this subsection.”

9. That Section 14-102 entitled Operator’s license of the Code of Ordinances for the Town of Yorkville relating to alcohol operator’s licenses be, and hereby is, amended to read as follows:

“Sec. 14-102. Operator's license.

Operator's licenses shall be issued as provided in Wis. Stat. § 125.32(2), as follows:

- (1) Application for an operator's license must be made in writing. Each operator's license shall be issued for one year and shall expire on June 30 of the year for which issued. The annual fee for such license shall be as stated in section 14-35
- (2) An operator's license may be issued only to persons who have attained the age of 18 years.
- (3) There shall be, upon premises operated under any Class A or Class B license, at all times, the licensee or some person who has an operator's license and who is responsible for the acts of all persons serving, as waiters or in any other manner, any fermented malt beverages or intoxicating liquors to customers. No member of the immediate family of the licensee under the legal drinking age shall serve, as a waiter or in any other manner, any fermented malt beverages or intoxicating liquor to customers unless an operator of legal drinking age or over is present upon and in immediate charge of the premises. No person, other than the licensee, shall serve fermented malt beverages or intoxicating liquor in any place operated under a Class A or B license unless he possesses an operator's license, or unless he is under the immediate supervision of the licensee or a person holding an operator's license, who is, at the time of such service, on the premises.
- (4) All applicants must file a written application for an operator's license with the clerk-treasurer, stating the name, residence, age and sex of the applicant, together with such pertinent information as to the fitness of a candidate as the clerk-treasurer shall require. All such applicants shall list any convictions for crimes or ordinance violations, which bear a relationship to the responsibilities of licensees. Upon approval of the application by the majority vote of the town board, the clerk-treasurer shall, upon payment or proof of payment of the license fee, issue to the applicant a license to expire on June 30 next following.
- (5) Applicants shall not be required to show proof of or offer of employment as a condition of receiving the license.

- (6) The town board may issue temporary operator's licenses as provided in Wis. Stat. § 125.17(4).
- (7) Provisional operator's licenses. A provisional operator's license shall function as an operator's license, subject to the limitations contained in this subsection.
 - a. Qualifications. The town clerk shall, without prior town board approval, issue a provisional operator's license to any person who has also applied with the town for an operator's license provided that, based upon the information contained in the application, the person meets the general qualifications contained in this chapter of the Code and Wis. Stat. Ch. 125, for the issuance of an operator's license, and further provided, however, that the town clerk shall issue a provisional operator's license to anyone filing with the town a certified copy of a valid operator's license issued by another municipality. In no event, however, shall a provisional operator's license be issued to anyone who has been denied an operator's license by the town.
 - b. Application fee. The fee for a provisional retail license shall be as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution, which shall be nonrefundable and shall not apply toward the operator's license for which the applicant has applied.
 - c. Duration. A provisional retail license shall expire (1) 60 days after its issuance, or (2) upon issuance or denial of the operator's license that was applied for with the town, or (3) upon expiration or termination of an operator's license from another municipality that was filed with the town under paragraph a., whichever event occurs sooner. The clerk shall revoke the provisional retail license if it is discovered that the holder of the license made a false statement on the application or upon discovery that an operator's license issued by another municipality and filed with the town under paragraph a. is invalid.”

10. That Section 14-176 entitled Bond of the Code of Ordinances for the Town of Yorkville relating to peddler, canvasser, solicitor and transient merchant license application bonds be, and hereby is, amended to read as follows:

“Sec. 14-176. Bond.

- (a) When required. Every applicant who is not a resident of the county or who represents a firm the principal place of business of which is located outside of the state shall file with the clerk-treasurer a surety bond in an amount as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution, approved by the town chairperson, conditioned that the applicant shall comply with all provisions of the town ordinances and state laws

and guaranteeing to any person doing business with the licensee that all money paid as a down payment will be accounted for and applied according to the representations of the licensee, and further guaranteeing that property purchased for future delivery will be delivered according to the representations of the licensee.

(b) Action on bond. Action on such bond may be brought by any person aggrieved.”

11. That Section 14-249 entitled Transfer of massage establishment permit of the Code of Ordinances for the Town of Yorkville relating to transfers of massage establishment permits be, and hereby is, amended to read as follows:

“Sec. 14-249. Transfer of massage establishment permit.

No massage establishment permit shall be transferable except with the written approval of the town board. Any application for such a transfer shall be in writing and shall be accompanied by a filing and investigation fee as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution, no part of which shall be refundable. The application for such transfer shall contain the same information as required for an initial application for such permit. If the transfer is denied, notification and reasons for denial shall be set forth in writing and shall be sent to the applicant by means of registered and certified mail or hand delivery.”

12. That Section 14-272 entitled Permit investigation and fee of the Code of Ordinances for the Town of Yorkville relating to massage technician permit investigation fees be, and hereby is, amended to read as follows:

"Sec. 14-272. Permit investigation and fee.

All applications for massage technician's permit shall be accompanied by an investigation fee as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution, no part of which shall be refundable. Upon receipt of such application, the clerk-treasurer shall refer the application to the town health officer who, within a period of 30 days from the date of application shall make an investigation and submit a written recommendation thereon to the town board concerning compliance with the respective requirements.”

13. That Section 14-324 entitled Revocation and suspension of the Code of Ordinances for the Town of Yorkville relating to mobile home park licenses be, and hereby is, amended to read as follows:

“Sec. 14-324. Revocation and suspension.

(a) Any license granted under the provisions of this article shall be subject to revocation or suspension for cause by the town board upon complaint filed with the clerk-treasurer, signed by any code enforcement officer, health officer or building inspector, after a public hearing upon such complaint; provided, however, that the holder of such license shall be given ten days' notice in writing

of such hearing and shall be entitled to appear and be heard as to why such license should not be revoked.

- (b) A licensee shall be deemed liable for revocation or suspension if the licensee violates any of the regulations and standards for the operation of a mobile home park as established in this article, or if the licensee fails to pay the monthly parking permit fees set forth in this article.
- (c) Any holder of a license which is revoked or suspended by the town board may, within 20 days of the date of such revocation or suspension, appeal therefrom to the circuit court by filing a written notice of appeal with the clerk-treasurer, together with a bond executed to the town in a sum as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution with two sureties or a bonding company approved by the clerk-treasurer, conditioned for the faithful prosecution of such appeal and the payment of costs adjudged against the licensee, all as provided for by Wis. Stat. § 66.0435.”

14. That Section 14-353 entitled License and monthly mobile home fee of the Code of Ordinances for the Town of Yorkville relating to mobile home licenses and monthly fees be, and hereby is, amended to read as follows:

“Sec. 14-353. License and monthly mobile home fee.

- (a) Each licensee shall pay an annual fee as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution to the clerk-treasurer in advance for each calendar year or fraction thereof within each mobile home park within the town limits, except where the park is in more than one municipality, the fee shall be in such fraction as the number of spaces in the mobile home park within the town bears to the entire number of spaces in the mobile home park.
- (b) Each transferee of a mobile home park license shall pay a fee as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution in advance to the clerk-treasurer for transfer of any such license.
- (c) In addition to the license fee provided in subsections (a) and (b) of this section, the town shall collect from each occupied mobile home occupying space or lots in a mobile home park in the town a monthly parking permit fee computed as follows: beginning January 1, 1980, the town assessor shall determine the total fair market value of each occupied mobile home in the town subject to the monthly parking permit fee. The fair market value, minus the tax-exempt household furnishings thus established, shall be equalized to the general level of assessment on other real and personal property in the town. The value of each occupied mobile home thus determined shall be multiplied by the tax rate established on the preceding May assessment of general property. The parking permit fee shall first be reduced by the credit allowed under Wis. Stat. § 79.10. The total annual parking permit fee thus computed shall be divided by 12 and

represent the monthly mobile home parking permit fee. The fee shall be applicable to occupied mobile homes moving into the town any time during the year. The mobile home park operator shall furnish information to the clerk-treasurer and the town assessor on occupied mobile homes added to his mobile home park within five days after their arrival, on a form prescribed by the state department of revenue. As soon as the town assessor receives the notice of an addition of an occupied home to a mobile home park, he shall determine its fair market value and notify the clerk-treasurer of his determination. The clerk-treasurer shall equalize the fair market value established by the town assessor and shall apply the tax rate for that year, divide the annual parking permit fee thus determined by 12 and notify the mobile homeowner of the monthly fee to be collected from the mobile homeowner. Liability for payment of the fee shall begin on the first day of the next succeeding month and shall remain on the mobile home only for such months as the occupied mobile home remains in the town. A new fee rate and evaluation shall be established each January and shall continue for that calendar year. The valuation established shall be subject to review as are other values established under Wis. Stat. ch. 70. If the board of review reduces a valuation on which previous monthly payments have been made, the town shall refund past excess fee payments. The monthly parking permit fee for mobile homeowners within a mobile home park shall be paid by the mobile homeowner to the clerk-treasurer on or before the tenth of the month following the month for which such parking permit fee is due. No such fee shall be imposed for any space occupied by a mobile home accompanied by an automobile, if the mobile home and automobile bear license plates issued by any other state than Wisconsin, for an accumulating period not to exceed 60 days in any 12 months, or if the occupants of the mobile home are nonresident tourists or vacationists. Exemption certificates in duplicate shall be accepted by the treasurer of the licensing authority from qualified nonresident tourists or vacationists in lieu of monthly mobile home permit fees. When one or more persons occupying a mobile home are employed in the state, there shall be no vacationer, nonresident exemption from the monthly parking permit fee. The licensees of a mobile home park shall be liable for the monthly parking permit fee for any mobile home occupying space therein as well as the owner and occupant thereof.

- (d) The monthly parking permit fee shall be collected by the licensee (mobile home park operator) from each mobile homeowner in the mobile home park of the licensee, required to pay such permit fee hereunder and remit such fees to the clerk-treasurer.
- (e) The fee for a mobile home located outside of a licensed mobile home park shall be paid by the owner of the mobile home, the occupant thereof or the owner of land on which it stands, the same as and in the manner provided for mobile homes located in a mobile home park, and the owner of such land shall be required to comply with the reporting requirements of subsection (c) of this section, provided that the fee shall be paid directly to the clerk-treasurer on or before the tenth day of the month following the month for which such parking permit is due.

- (f) This article shall not apply where a mobile home park is owned and operated by any county under the provisions of Wis. Stat. § 59.52(16)(b).
- (g) Failure to timely pay the tax under this article shall be treated in all respects like a default in payment of personal property tax and shall be subject to all procedures and penalties applicable thereto under Wis. Stat. ch. 70 and Wis. Stat. ch. 74."

15. That Section 14-483 entitled Transfer of license; fee of the Code of Ordinances for the Town of Yorkville relating to fees for cigarette license transfers be, and hereby is, amended to read as follows:

"Sec. 14-483. Transfer of license; fee.

Upon payment of a fee as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution, a license issued under this division may be transferred from the licensee to another owner, but no license shall be transferable as to the location of the licensed premises."

16. That Section 14-664 entitled Yearly fee of the Code of Ordinances for the Town of Yorkville relating to annual fees for public show permits be, and hereby is, amended to read as follows:

"Sec. 14-664. Yearly fee.

The fee for permits issued under this division for any ongoing theater, show, event or amusement, including movie houses, shall be as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution, renewable on the anniversary date of issuance."

17. That Section 14-784 entitled Fees of the Code of Ordinances for the Town of Yorkville relating to junk dealer and peddler fees be, and hereby is, amended to read as follows:

"Sec. 14-784. Fees.

- (a) The license fee, in an amount specified by section 14-35, per annum or fractional part thereof for each junk business.
- (b) There shall be a fee, in an amount specified by section 14-35, per annum for each junk peddler using one wagon, cart or other vehicle. For each additional wagon, cart or other means of conveyance used for each purpose, such licensee shall pay an additional sum as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution. Each licensee engaged in collecting or gathering junk shall be furnished with a plate with the number of his license described thereon which shall be securely fastened by the licensee in some conspicuous place on the wagon, cart or other vehicle so used by him."

18. That Section 14-829 entitled Determination by town board of the Code of Ordinances for the Town of Yorkville relating to gravel pits, sand pits and dumps be, and hereby is, amended to read as follows:

“Sec. 14-829. Determination by town board.

- (a) Within five days after the public hearing if required and otherwise within 30 days of receipt of application the town board shall make a determination as to whether or not the proposed use described in the application shall be detrimental to the health, safety and welfare of the public of the town. Such determination shall be made on the basis of the information contained in the application together with the evidence presented at the public hearing and a personal inspection of the premises by the members of the town board.
- (b) The town board shall, as a condition to the issuance of an operator's license, demand an agreement with the applicant whereby the applicant agrees to restore the premises in accordance with the representations contained in the application. The town board shall demand that a performance bond, written by a licensed surety company in an amount sufficient to secure the performance of the restoration agreement, be furnished to the town. The amount of such bond shall be not less than an amount as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution for each acre of land included in the application.”

19. That Section 14-1006 entitled Renewal of the Code of Ordinances for the Town of Yorkville relating to adult oriented establishments be, and hereby is, amended to read as follows:

“Sec. 14-1006. Renewal.

- (a) Every license issued pursuant to this article will terminate at the expiration of one year from date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the clerk-treasurer. The application for renewal must be filed not later than 60 days before the license expires. The application for renewal shall be upon a form provided by the clerk-treasurer and shall contain such information and data given under oath or affirmation as is required for an application for a new license.
- (b) A license renewal fee as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution shall be assessed against any applicant who files for a renewal less than 60 days before the license expires. If the application is denied, one half of the total fees collected shall be returned.
- (c) Any law enforcement agencies with any information bearing on the operator's qualifications may file that information with the clerk-treasurer.

- (d) The building inspector shall inspect the establishment prior to the renewal of a license to determine compliance with the provisions of this article.”

20. That Section 26-31 entitled Appeals of the Code of Ordinances for the Town of Yorkville relating to fire and rescue protection be, and hereby is, amended to read as follows:

“Sec. 26-31. Appeals.

(a) *Appeals.*

- (1) The owner of a building or structure, or any other person who is aggrieved and directly affected ("person aggrieved"), may appeal from decisions or orders of the building inspector, fire chief or his designate relative to the application and interpretation of ("fire and rescue protection ordinance"), to the town board.
- (2) All applications for appeal shall be in writing and must be received by the town clerk no later than 30 days after notice of the building inspector's, fire chief's or his designate's decision or order ("determination"). The request for review shall state the grounds upon which the person aggrieved contends that the determination should be modified or reversed.
- (3) A determination or action subject to administrative or judicial review procedures set forth under the Wisconsin Administrative Code or state statutes or other provisions of this Code is not reviewable under this chapter.
- (4) An application for an appeal shall be accompanied by a fee as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution, made payable to the Town of Yorkville.
- (5) The town board shall provide the person aggrieved with a hearing on an appeal within 30 days of receipt of the notice of appeal, providing the appellant with notice of the hearing at least ten days before such hearing, unless such notice is waived in writing by the appellant. At the hearing, the appellant and the town may be represented by counsel and may present evidence, call and examine witnesses and cross-examine witnesses of the other party.

(b) *Decision on appeals.*

- (1) The board shall affirm, modify or reverse the decision of the building inspector, fire chief or his designate. Appeal of the action of the board shall be to circuit court.
- (2) The board shall affirm the decision of the building inspector, fire chief or his designate unless it determines that:

- a. The building inspector, fire chief or his designate has misinterpreted or misapplied the applicable ordinance, rule or code provision; or
 - b. The compliance time established by the building inspector, fire chief or his designate is unreasonable; or
 - c. An equally good or better form of construction can be used.
- (3) The board shall send the applicant a written decision, including reasons for the decision. The building inspector, fire chief or his designate shall act immediately to carry out the board's decision.

(c) *Modification or waiver.*

- (1) *Authority.* Where, in the judgment of the town board, it would be inappropriate to apply literally the provisions of an ordinance because an exceptional circumstance exists, the town board may waive or modify any requirements to the extent deemed just and proper. However, the town board does not have the authority to interpret or waive the requirements of the Wisconsin Administrative Code, as the department of commerce exercises jurisdiction with respect to such matters.
- (2) *Application.* Application for any such modification or waiver shall be made by the person aggrieved in writing as part of the request for clarification or review of determination, stating fully all facts relied upon in requesting the modification or waiver, and shall be supplemented with any additional data that may aid the building board in the analysis of the proposed modification or waiver. This application may be supplemented at any time during the review process.
- (3) *Considerations.* The town board may consider the following factors, in addition to any other factors deemed relevant by the town board:
 - a. Whether the request for a waiver or modification, if granted, would be consistent with the general intent of the ordinance.
 - b. Whether the request for a waiver or modification, if granted, would adversely affect any property owners in the town.
 - c. Whether the request for waiver or modification, if granted, would benefit the person aggrieved in a way that is not consistent with the village's interests.
 - d. Whether, instead of granting the request for a waiver or modification, the ordinance itself should be changed to accommodate the kind of situation presented by the person aggrieved.

- e. Whether the conditions upon which the request for a modification or waiver is based are unique to the situation or property for which the modification or waiver is sought and are not applicable generally to other situations or property.
- (4) *Conditions for granting.* The town board shall not grant a modification or waiver to an ordinance unless it makes findings based upon the evidence presented to it in each specific case and based upon the consideration of the above factors that the granting of the modification or waiver will not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the town. Any decision to grant a modification or waiver shall not be arbitrary, capricious, or prejudicial in nature.
- (5) *Granting by town board.*
- a. The town board, if it approves of the modification or waiver of an ordinance or any portion of it, shall do so only after a hearing.
 - b. Such relief shall be granted without detriment to the public good and without impairing the intent and purpose of the ordinance.
 - c. The reasons why such modification or waiver was granted shall be entered as part of the record of hearing.
 - d. If the town board grants a modification or waiver, the town board may also decide whether the ordinance itself be changed to accommodate the kind of situation presented by the person aggrieved.
- (6) *Past noncompliance not waived.* A waiver or modification that is granted pursuant to a written request as described in this section shall not waive any fines, forfeitures or other penalties that may have accrued due to violations of the ordinance that took place prior to the date of the appeal, unless specifically stated otherwise in the decision of the town board.
- (d) *Chapter 68 of the Wisconsin Statutes.* Pursuant to Wis. Stat. § 68.16, the Town of Yorkville elects not to be governed by those provisions of Chapter 68 which are in conflict with this chapter. In the event of any conflict between this chapter and Chapter 68, the provisions of this chapter shall govern.”

21. That Section 34-205 entitled Special sludge permit fee of the Code of Ordinances for the Town of Yorkville relating to special sludge transport or disposal permits be, and hereby is, amended to read as follows:

“Sec. 34-205. Special sludge permit fee.

The application fee for a special sludge permit shall be as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution and shall be paid upon filing the application with the clerk-treasurer.”

22. That Section 38-82 entitled Fee and bond required of the Code of Ordinances for the Town of Yorkville relating to road or highway openings be, and hereby is, amended to read as follows:

“Sec. 38-82. Fee and bond required.

No permit shall be issued under this section unless the applicant therefor pays a fee as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution and files a cash or surety bond with the building inspector in the principal sum as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution in the case of openings to service residential buildings and as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution in the case of openings to service commercial, industrial or institutional buildings to guarantee the filling of trenches and the proper restoration of the highway. The completion work shall be done by the applicant and finished within 24 hours following completion of the job or notice by the building inspector, whichever is sooner. If not so completed, the work shall be completed by order of the town board upon notice by the building inspector and the bond filed by the applicant shall be applied against the costs thereof. If the bond is inadequate therefor, the applicant shall be liable for any deficiency.”

23. That Section 46-65 entitled Permit of the Code of Ordinances for the Town of Yorkville relating to hotel and motel permitting be, and hereby is, amended to read as follows:

"Sec. 46-65. Permit.

- (a) No hotel keepers, motel operators and other persons furnishing accommodations that are available to the public shall operate a hotel, motel or other furnished accommodations available to the public in the town without first obtaining a room tax permit for each hotel, motel or other furnished accommodations available to the public. Application for such permit shall be made to the clerk-treasurer on forms provided by the clerk-treasurer. The clerk-treasurer shall issue a permit to the hotel keepers, motel operators and other persons furnishing accommodations that are available to the public for each facility for which application is made upon payment of a fee as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution for each hotel, motel or other furnished accommodations available to the public. The permit is nontransferable and is valid only for the named hotel, motel or other furnished accommodations available to the public and the hotel keepers, motel operators and other persons furnishing accommodations that are available to the public named in such permit. The permit shall be posted in a conspicuous place in the hotel, motel or other furnished accommodations available to the public for which it is issued.
- (b) If the hotel keepers, motel operators and other persons furnishing accommodations that are available to the public ceases to do business at the hotel, motel or other furnished accommodations available to the public for which

the permit was issued; conveys or transfers the business or his interest in it; or assigns his interest to another person, the hotel keepers, motel operators and other persons furnishing accommodations that are available to the public shall, within ten days of such event, notify the clerk-treasurer of such change and turn in to the clerk-treasurer any such permit issued for the hotel, motel or other furnished accommodations available to the public."

24. That Section 46-68 entitled Assessment of the Code of Ordinances for the Town of Yorkville relating to hotel and motel room taxes be, and hereby is, amended to read as follows:

"Sec. 46-68. Assessment.

If a hotel keeper, motel operator or other person furnishing accommodations that are available to the public fails to file a return as required by this section, the clerk-treasurer shall make an estimate of the amount of the gross receipts for such hotel, motel or other furnished accommodations available to the public. The estimate shall be made for the period upon state sales tax records and records described in section 46-67. On the basis of such estimate, the clerk-treasurer shall compute and determine the amount of the tax. In addition to the tax, a penalty in an amount as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution shall be assessed."

25. That Section 46-69 entitled Delinquent returns; delinquent tax of the Code of Ordinances for the Town of Yorkville relating to hotel and motel room taxes be, and hereby is, amended to read as follows:

"Sec. 46-69. Delinquent returns; delinquent tax.

All unpaid taxes assessed or imposed under this article shall bear interest at the rate of 12 percent per annum from the due date of the return until paid. Delinquent tax returns under this article shall be subject to a late filing fee as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution."

26. That Section 54-53 entitled Disposal of holding tank wastes of the Code of Ordinances for the Town of Yorkville relating to holding tank wastes be, and hereby is, amended to read as follows:

"Sec. 54-53. Disposal of holding tank wastes.

- (a) No person in the business of collecting and disposing of holding tank wastes shall transfer such material wastes into any manhole or other appurtenance of any district sewer, or into any local, private building or lateral sewer which is a branch thereof, unless a permit for disposal of such wastes has first been obtained from the district.
 - (1) Written application of such permit shall be made to the district and shall state the name and address of the applicant, the make, model, year, license number and capacity of the disposal unit and, where applicable,

the state sanitary license number granted to the hauler by the state department of safety and professional services and/or department of natural resources.

- (2) Permits shall be renewed on an annual basis. Applications for permits will be transmitted to all current permit holders by June 1 of each year. Completed applications shall be submitted to the district prior to July 1. The district shall either approve or deny each application prior to August 1. An annual fee as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution shall accompany each application for a permit. Charges for treatment of the disposed wastes will be based upon the unit costs of treatment.
 - (3) The permit, or a copy thereof, shall be kept at all times with the disposal unit.
 - (4) The permit will allow the holder to dispose of wastes, which are strictly domestic in origin. The discharge of any other wastes without prior approval of the district is prohibited.
- (b) No holding tank wastes may be disposed of into any sewer within the district without prior approval of the district.
- (c) No disposing of wastes after permit revocation.
- (1) The district may revoke any permit issued for any reason it deems sufficient. The issuance of a permit is not intended to create any interest in the permit holder, but is instead intended to allow the district to know about, monitor and properly charge for the disposal of waste.
 - (2) If the district revokes a permit, the revocation is effective on the date the order is mailed, by certified mail, to the address of the permit applicant.
 - (3) Continued disposal of holding tank wastes after revocation subjects the permittee or those acting pursuant to the permittee's direction to the penalties provided by law.
- (d) The disposal of holding tank wastes shall occur only at those sites designated by the district. Disposal at any location other than those designated by the district is prohibited.
- (e) See sections 54-51 and 54-52 for the installation of holding tanks.”

27. That Section 54-218 entitled Sewerage connection charge of the Code of Ordinances for the Town of Yorkville relating to sewerage connection charges be, and hereby is, amended to read as follows:

“Sec. 54-218. Sewerage connection charge.

There shall be paid to the district and collected by the clerk-treasurer on each lot, parcel of land or premises on which a unit or connection charge shall not have been assessed or paid prior to the time that a permit for and connection is made to the sanitary sewerage system of the district a unit connection charge as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution for each unit determined and attributed to such connection as provided in section 54-213; provided, however, if the land was previously assessed or otherwise charged an acreage assessment, the unit connection charge shall be as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution. No such permit or connection shall be made to the sanitary sewer system until such unit connection charge is first so paid in full or levied and assessed. The property owner shall install the building sewer from the building to the street lateral at his own expense. In no case shall the property owner deduct the cost of the building sewer from the connection charge.”

28. That Section 54-219 entitled Additional connection charge of the Code of Ordinances for the Town of Yorkville relating to sewerage connection charges be, and hereby is, amended to read as follows:

“Sec. 54-219. Additional connection charge.

To allocate costs of sewer extensions and connections among the various users in the district in a fair and equitable manner, the following shall apply:

- (1) *Property previously subjected to acreage assessment.* The owner or developer shall pay the cost of sewer extensions reasonably required to provide sewer service to the parcel to be serviced, including internal sewer lines within the development. A connection charge for each unit for the proposed building as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution shall be paid by the owner. The user charge will be determined in accordance with the user charge provisions of this division.
- (2) *Property not previously subject to acreage assessment.* The owner or developer shall pay the cost of sewer extension reasonably required to provide sewer service to the parcel to be serviced, including internal sewer lines within the development. A connection charge for each unit for the proposed building as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution shall be paid by the owner. The user charge will be determined in accordance with the user charge provisions of this division.
- (3) *Nonresidential property not previously subjected to an acreage assessment.* The owner or developer shall pay the cost of sewer extension reasonably required to provide sewer service to the parcel to be serviced, including internal sewer lines within the development. A connection charge for each unit for the proposed building as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution shall be paid by the owner. The user

charge will be determined in accordance with the user charge provisions of this division.”

29. That this ordinance shall become effective upon adoption and publication as provided by law.


Adopted by the Town Board of the Town of Yorkville, Racine County, Wisconsin, this 13th day of July, 2015.

Ayes: 2

Nays: 0

Abstentions: 0

TOWN OF YORKVILLE

By: 
Peter L. Hansen, Chairperson

Attest: 
Michael McKinney, Clerk-Treasurer