

Title 7 ▶ Chapter 11

Non-Motorized Vessels

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Sec. 7-11-1 Purpose.

The purpose of this Chapter is to regulate:

- (a) Unattended non-motorized vessels situated on City of Washburn property;
- (b) Persons renting non-motorized vessels which are situated on City of Washburn property;
and
- (c) Commercial use of non-motorized vessels which are situated on City of Washburn property.

Sec. 7-11-2 Definitions.

For purposes of this Chapter, the following words and phrases shall have the following meanings:

- (a) **Accessories.** Means or refers to the accessories associated with a non-motorized vessel, including, but not limited to, such items as paddles, oars, sails, anchors, and life preservers.
- (b) **City.** The City of Washburn, Bayfield County, Wisconsin.
- (c) **City Property.** Real property situated in the City of Washburn which is owned by the City of Washburn.
- (d) **Commercial Use.** Any use, including, but not limited to, rental or operation of a non-motorized vessel for which monetary or other compensation is received.
- (e) **Non-Motorized Vessel (NMV).** A canoe, kayak, rubber raft, boat, watercraft or vessel used or capable of being used as a means of transportation on water which is not powered by a motor. A reference herein to NMV also refers to related accessories of such NMV.

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- (f) **Person.** A natural individual person or corporation, limited liability company, partnership, association, or other legal entity.

Sec. 7-11-3 Non-Motorized Vessels on City Property.

- (a) **Overnight Storage Prohibited.** No NMV and associated accessories shall be left overnight on City property.
- (b) **Assumption of Risks.**
 - (1) The City hereby notifies persons who decide to leave their NMVs unattended on City property that such vessels who decide to leave their NMVs unattended on City property that such vessels are very exposed to harm and are at substantial risk of being stolen, damaged or destroyed by persons, animals, or other perils or forces of nature, some of which are foreseeable and some of which are not foreseeable.
 - (2) Unattended NMVs, although situated on City property, are not within the possession, custody or control of the City nor are they under the City's supervision, so the City does not accept or assume any responsibility, obligation or liability in respect to the protection of such NMVs.
- (c) **Legal Presumptions.** A person who makes a voluntary decision to leave their NMV unattended on City property shall be deemed:
 - (1) To have assumed and accepted all risks associated therewith including, but not limited to, those involving theft, damage, destruction and loss of such NMV; and
 - (2) To have covenanted not to sue or assert any claim or cause of action, of any nature or kind, against the City or any of its officials, officers, employees, agents or representatives associated with, related to or arising from any such loss, damage or destruction.

Sec. 7-11-4 Parties Liable.

- (a) If a NMV is discovered unattended on City property in violation of this Chapter, a citation for such violation may be issued to:
 - (1) A person who had been using or possessing such NMV;
 - (2) A person who is using or possessing the NMV at the time the citation is issued; or
 - (3) An owner of such NMV at the time of violation.
- (b) Each of the above persons is liable and responsible for such violation(s).

Sec. 7-11-5 Commercial Use of Nonmotorized Vessels on City Property.

- (a) **Commercial Use Permit Requirement.**
 - (1) Any person wishing to utilize a NMV for commercial use on City property, including at the Coal Dock, Memorial Park, or West End Park, shall each year obtain a Commercial Use Permit for each vessel.

- (2) Commercial users shall obtain a permit from the City and abide by all terms indicated in the permit. The permit shall include indemnification of the City and require an insurance certificate.
 - (3) Commercial users obtaining a permit accept responsibility related to all terms and conditions of use.
 - (4) Applicable permit fees are required as provided in the City of Washburn Fee Schedule.
- (b) **Prohibited Commercial Use of City Property Without Permit.** No commercial NMV on City property is allowed without first obtaining a Commercial Use Permit.
 - (c) **Hold Harmless Provision.** The City shall be held harmless against theft, loss, or damage to properties of the commercial user.
 - (d) **Other Park Rules and Regulations.** Activities within City parks are subject to all rules, regulations, and ordinances of the City of Washburn.

Sec. 7-11-6 Commercial Use Permit Process.

- (a) **General Requirement.** A Commercial User Permit shall be obtained from the City Clerk or designee to utilize non-motorized vessels for commercial use on City property, including the Coal Dock, Memorial Park, and West End Park. A Commercial Use Permit is valid from May 15 through October 15 of the year issued.
- (b) **Application.** A person seeking issuance of a permit hereunder shall file an application with the City Clerk. The application shall include:
 - (1) The name, address, telephone number(s), and email of the applicant;
 - (2) Federal and state tax identification number, if applicable;
 - (3) The applicant's general liability insurance information;
 - (4) The number of NMVs and description of each such vessels that the applicant intends to use of City property; and
 - (5) Any other information required by the City to aid in the permit process.
- (c) **Fees.** Each application shall be submitted with the required fees prior to consideration of the permit process.
- (d) **Standards for Issuance.** The City Clerk or designee shall issue a permit in consideration of the following:
 - (1) The commercial use will not interfere with or unreasonably detract from the general public enjoyment of the park or promotion of public health, welfare, safety and recreation;
 - (2) The commercial use is not reasonably anticipated to incite disorderly conduct; and
 - (3) The application is complete with all required information, including insurance information on file.
- (e) **Financial Qualifications.** To apply to the City for the issuance of a Commercial Use Permit, the applicant shall not at the time of such application, owe the City:

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- (1) Any delinquent real estate taxes, delinquent personal property taxes, or any interest or penalty due thereon; or
 - (2) Any unpaid forfeiture or fee which has been unpaid for sixty (60) days or more; or
 - (3) Money on a judgment in favor of the City and against the applicant or a corporation, limited liability company, partnership, joint venture, trust, estate, or any other entity in which that person is a shareholder, director, officer, owner, member, agent, trustee, representative, manager, employee, consultant, advisor or holder of any other right, title or interest, which has been unpaid for sixty (60) days or more.
- (f) **Issuance.** The City Clerk or designee shall issue or deny the permit within five (5) business days of receiving the application. Denials shall be clarified in writing and state the reasons for such.
- (g) **Appeals.** The applicant may appeal the denial of a permit pursuant to Section 4-1-1 of the City of Washburn Code of Ordinances.
- (h) **Revocation.** The City may revoke a Commercial User Permit issued under this Chapter from its holder who, after sixty (60) days' notice, fails to pay any of the financial obligation in Subsection (e) above.

Sec. 7-11-7 Limitations.

- (a) **Commercial User Permit Holders.** No person holding a current Commercial Use Permit issued by the City shall leave unattended more than eight (8) non-motorized vessels on any City property at any one time.
- (b) **Non-Commercial Users.** No person who does not hold a current Commercial User Permit issued by the City shall leave unattended more than four (4) non-motorized vessels on any City property.
- (c) **Blocking of Shoreline.** No person or group of persons shall utilize, block access to, store non-motorized vessels on, or otherwise encumber more than thirty (30) feet of shoreline on City property at any time.
- (d) **Calculation of Vessel Numbers.** When calculating the total number of non-motorized vessels a person has at a given location at once under this Section, there shall be added together:
- (1) Each NMV at that location such person owns, possesses, uses, controls, rents, leases, has custody of or hold an interest in, plus
 - (2) Each NMV at that location which is owned, possessed, used, controlled, rented, leased or is within the custody of a corporation, limited liability company, partnership, joint venture, trust, estate or any other entity in which that person is a shareholder, director, officer, owner, member, agent, trustee, representative, manager, employee, consultant or advisor or the holder of any other right, title or interest.
- (e) **Hours of Operation.** Commercial Use Permit holders shall operate such commercial uses on City property between the hours of 6:00 a.m. and one-half hour after sunset.

Sec. 7-11-8 Prohibited Conduct by Commercial Use Permit Holders.

- (a) **Status With City.** A person does not become an employee, agent or representative of the City of Washburn by being issued a Commercial Use Permit by the City by virtue of their status as a Commercial Use Permit holder, since such person's conduct unavoidably reflects on the City of Washburn.
- (b) **Disorderly or Profane Conduct Prohibited.** The holder of a Commercial Use Permit issued by the City shall not, in a public or noncommercial place, engage in abusive, rude, indecent, profane, violent, untruthful, unreasonably loud, or otherwise disorderly conduct under circumstances in which such conduct tends to cause or provoke a disturbance.
- (c) **Specific Prohibited Conduct.** Whoever does any of the following has violate this Chapter:
 - (1) Intentionally damages, hides, conceals, interferes with, or, without the owner's consent, uses a NMV which is legally situated on City property.
 - (2) Intentionally commits an act which is reasonably calculated to hamper, obstruct, or interfere with the operation of a NMV rental business or a NMV rental operation on City property.
 - (3) Takes down, removes, damages, interferes with or tampers with any lock, chain or other device owned or installed by the City or its agent, employee or representative on City property.
 - (4) Drinks or consumes alcohol and/or illicit drugs while on City property and while under the employ of a permit holder engaging in the commercial use of NMVs.
- (d) **Penalty.** The penalty for citations issued for violations of this Chapter shall be assessed pursuant to Section 1-1-7 of the City of Washburn Code of Ordinances.

Sec. 7-11-9 Enforcement.

- (a) **Issuance of Citation to Violator.** Any law enforcement officer or other officer or employee of the City of Washburn may, on behalf of the City, issue a citation to any person who is believed to have violated a provisions of this Chapter.
- (b) **Each Day a Separate Offense.** Each day a violation occurs constitutes a separate offense for which a separate penalty may be imposed.
- (c) **Permit Revocation.** In addition to or in lieu of the issuance of a citation to a person who is believed to have violated a provision of this Chapter, the City Clerk may provide the holder of a Commercial Use Permit issued by the City with a written notice stating that the City intends to revoke the Commercial Use Permit issued to such person on a date certain, not less than fifteen (15) days in the future. Such written notice of intent to revoke a Commercial Use Permit shall be served on the Commercial Use Permit holder by personal service or sent by certified mail, return receipt requested, at least fifteen (15) days before

the intended date of revocation of the Commercial Use Permit. A certified mail letter properly addressed and sent to a Commercial Use Permit holder shall be deemed to have been served on the addressee when mailed. Such written notice shall:

- (1) Inform the Commercial Use Permit holder of the City's intention to revoke the Commercial Use Permit issued to them, the date of such intended revocation and the specific grounds for such intended revocation; and
- (2) Inform the Commercial Use Permit holder that they have a right, prior to the stated date of intended revocation, to file with the City Clerk a written request for a hearing before the Common Council on the issue of such revocation.
- (3) If the City Clerk receives a written request for a hearing prior to the intended date of revocation of a Commercial Use Permit, the Commercial Use Permit issued to such person shall not be revoked until the hearing is conducted by the Common Council on such issue.
- (4) A hearing before the Common Council on the issue of whether to revoke a Commercial Use Permit will be conducted, to the extent possible, similar to a hearing before the City Board of Review.
- (5) In the event the Common Council determines that a Commercial Use Permit should be revoked, the Common Council can then also determine at such time whether to bar such person from being issued a Commercial Use Permit in the future for a stated period of time.
- (6) An appeal from the determination of the Common Council under this Section shall be by action for certiorari commenced within thirty (30) days after that party receives the written notice of the Common Council's decision.