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**PUBLIC NOTICE OF A COMMITTEE MEETING
OF THE COMMON COUNCIL OF THE CITY OF WATERLOO**

Pursuant to Section 19.84 Wisconsin Statutes, notice is hereby given to the public & news media, that the following meeting will be held:

COMMITTEE: PUBLIC SAFETY AND HEALTH COMMITTEE
DATE: Thursday, February 2, 2017
TIME: 6:00 p.m.
LOCATION: Municipal Building Police Training Room, 136 N. Monroe Street

1. CALL TO ORDER AND ROLL CALL
2. APPROVAL OF MEETING MINUTES: December 1, 2016
3. PUBLIC COMMENT
4. UNFINISHED BUSINESS.
 - a. Drones
 - b. Review And Consideration Regarding Vendor Permissions And Liability Of Parade And Other Special Events Held In The Public Right-Of-Way
5. NEW BUSINESS
 - a. Review And Consideration Regarding Ordinance Change Allowing Prompt Issuance Of Provisional Operator's Licenses – Chapter 223.7 Intoxicating Liquor And Fermented Malt Beverages
 - b. Special Event Application -- Waterloo School District, Character Shuffle 5K Event
6. FUTURE AGENDA ITEMS, COMMUNICATIONS AND ANNOUNCEMENTS
7. ADJOURNMENT

Mo Hansen
Clerk/Treasurer

*** See Council Packet, Also On Tonight's Council Agenda
Committee Members: Thomas, Griffin and Petts

Printed, Posted, E-mailed and Distributed: 01/31/2017

PLEASE NOTE: IT IS POSSIBLE THAT MEMBERS OF AND POSSIBLY A QUORUM OF MEMBERS OF OTHER GOVERNMENTAL BODIES OF THE MUNICIPALITY MAY BE IN ATTENDANCE AT THE ABOVE MEETING(S) TO GATHER INFORMATION. NO ACTION WILL BE TAKEN BY ANY GOVERNMENTAL BODY OTHER THAN THAT SPECIFICALLY NOTICED. ALSO, UPON REASONABLE NOTICE, EFFORTS WILL BE MADE TO ACCOMMODATE THE NEEDS OF DISABLED INDIVIDUALS THROUGH APPROPRIATE AIDS AND SERVICES. FOR ADDITIONAL INFORMATION OR TO REQUEST SUCH SERVICES PLEASE CONTACT THE CLERK'S OFFICE AT THE ABOVE LOCATION.

PUBLIC SAFETY AND HEALTH COMMITTEE MEETING MINUTES
December 1, 2016

1. **Call to Order:**
The Public Safety Committee meeting was called to order by Alderperson Thomas at 6:00PM
2. **Roll Call:**
Committee members present – Alderperson Thomas, Griffin, Petts, and Interim Chief Lange.
3. **Approval of Public Safety Committee Minutes of November 3, 2016.** Motion by Alderperson Griffin, second by Petts, motion carried.
4. **Citizen Input: None**
5. **Unfinished Business:**
 - a. Review and Consideration of Revisions to Chapter 140 Building & Consideration of the Municipal Code as Submitted by SAFEbuilt and Reviewed by City Attorney Fenner. Revision to 140-8.10 Smoke detectors required to include: **ALL RESIDENTIAL DWELLINGS** motion by Griffin, second by Petts, motion carried.
 - b. Review and Consideration Regarding Regulation, Vendor Permissions and Liability of Parade and other Special Events held in Public Right-of-Way. Motion to Table by Griffin, second by Petts, motion carried.
 - c. Drones – Motion to Table by Petts, second by Griffin, motion carried.
6. **New Business: (None)**
7. **Future Agenda Items and announcements (None)**
8. **Adjourn :** Motion to Adjourn by Petts, Second by Griffin, motion carried.

Attest to:  12-06-2016



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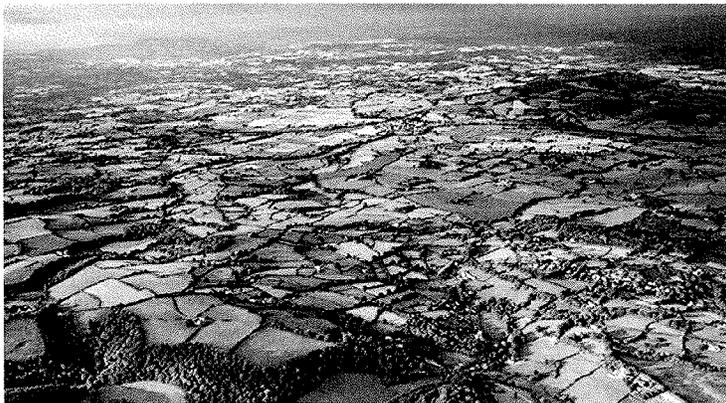
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Up, Up and Away: Rising Legal Regulation of Drone Operation

Don't be fooled by drones' size; these tiny aircraft bring with them major legal issues.

KEVIN DAVID TROST



It is hard to ignore the prevalence of unmanned aerial vehicles or drones in modern society. Once reserved for military surveillance and reconnaissance, drones have become a widespread part of private business and recreation. The Federal Aviation Administration (FAA) estimates that up to one million drones were purchased during the last year alone.¹ As privately operated drones are increasingly hovering over our nation's cities and farms, governments are responding by passing laws to regulate their operation in the interests of public safety and privacy.

This article addresses the expanding patchwork of municipal, state, and federal laws that has arisen to govern the private use of drones. It analyzes issues of privacy, trespass, and federal-state jurisdiction that are affected by the private operation of drones.

Background

The commercial use of drones has exploded over the last several years as drones have become more affordable. Surveyors, photographers, and realtors have started using the machines to obtain unique and impressive aerial images of properties and wedding parties for their clients.² Television stations have started using the machines for aerial footage that previously had to be obtained by helicopter. Large farming operations have begun using drones to evaluate crop growth, and conservationists have begun using them to unobtrusively monitor wildlife populations.



Kevin D. Trost, U.W.
*1998, is a litigator with
Axley Brynerson LLP,
Madison.*

Several national retailers are publicly exploring the possibility of delivering purchases by drone. Facebook founder Mark Zuckerberg recently acquired a drone manufacturer, and he is considering deploying solar-powered drones that can remain airborne for years at a time and bring Internet service to remote areas of the planet.

People who use drones recreationally can for the most part operate their machines with few restrictions and limited guidance. Consequently, the private operation of drones has attracted greater attention from the media and legislators as the number of drone incidents affecting public safety has risen. According to the FAA, the number of such incidents reported to the

agency increased from 238 in 2014 to 1,133 through December 2015.³

Several incidents have garnered widespread attention from the media. In January 2015, a hobbyist accidentally crashed his drone on the front lawn of the White House.⁴ In June 2015, four firefighting planes working to contain a California wildfire had to be grounded for several hours because of the danger of collision with a drone being operated in the area in spite of a FAA flight restriction.⁵ In August 2015, a drone crashed into several unoccupied stadium seats during the U.S. Open.⁶ And in November 2015, a drone flew into the 175-foot-tall Ferris wheel at Pier 57 in Seattle and then tumbled to the ground, crashing through an empty café table at the bottom of the attraction.⁷

Fortunately, no one was injured in any of these incidents. However, the risks posed by the careless operation of drones have not gone unnoticed. Governmental authorities have increasingly reacted by enacting laws to regulate where and when drones can be operated.

Municipal Ordinances

Not waiting for the federal government to weigh in on the issue, many municipalities throughout the country have adopted ordinances regulating drone operation. In Wisconsin, the only community that has adopted its own regulations is Green Bay. In 2015, the city adopted an ordinance prohibiting the operation of drones at an altitude less than 400 feet above the designated boundaries of a special event.⁸ The city's ordinances define *special events*⁹ to include Packer games and also the city's annual fireworks display, marathon, and Artstreet event.¹⁰ Exceptions to the ordinance are made for law enforcement agencies, persons with permission from the event organizer, and the FAA.¹¹

Wisconsin Laws

Wisconsin has had a law affecting drone operation in effect since April 2014.¹² Focusing on individual privacy concerns, the law prohibits private citizens from using a drone "with the intent to photograph, record, or otherwise observe another individual in a place or location where the individual has a reasonable expectation of privacy..."¹³ Violators of this statute are subject to being charged with a Class A misdemeanor.¹⁴ Critics have noted that the law solely addresses the right to privacy of a person and extends no protection to a person's property (see Privacy discussion below.)

The law also imposes restrictions on law enforcement's use of drones. It mandates that law enforcement agencies obtain a warrant before employing a drone to collect evidence in circumstances in which a person has a reasonable expectation of privacy.¹⁵ However, there are exceptions that permit the use of a drone to locate an escaped prisoner, aid a search-and-rescue mission, or prevent imminent harm to a person or the imminent destruction of evidence.¹⁶ The law also prohibits drones in Wisconsin from being armed with weapons.¹⁷

Recent Wisconsin Legislation

In its most recent session, the Wisconsin Legislature considered two bills that would affect the operation of drones in the state.⁴⁰ In March 2016, the legislature passed one of the bills and Governor Walker signed into law 2015 Wisconsin Act 318, which imposes a \$5,000 fine for operating a drone over a state correctional institution.⁴¹ There is concern that individuals could use drones to deliver contraband or weapons to prisoners.

Although there is no known instance of such a use of drones in Wisconsin yet, this phenomenon has occurred in other states. For example, in January 2015, South Carolina correctional officers discovered a crashed drone in a prison yard with drugs and cellphones attached to it.⁴² In December 2015, Canadian authorities determined that a drone had been used to deliver a handgun into a notorious prison in Quebec housing alleged mafia and biker-gang members.⁴³ State and federal authorities are investigating technological methods, such as geofencing, to keep drones out of sensitive areas.

The second bill in the Wisconsin Legislature sought to enhance penalties for crimes that were committed using a drone.⁴⁴ This bill passed the Assembly. However, unlike the prison ban bill, this bill did not make the Senate's final agenda and died at the end of the legislative session.

FAA Regulations

Recreational Users. In December 2015, the FAA entered the arena of recreational drone regulation when it issued an interim final rule for the regulation and marking of recreational drones, termed "small unmanned aircraft systems" in its regulation.¹⁸ A *small unmanned aircraft system* (UAS) is defined as an "unmanned aircraft that is capable of sustained flight in the atmosphere, flown within visual line of sight of the person operating the aircraft, and flown only for hobby or recreational purposes."¹⁹ This broad definition results in the rule affecting not only owners of drones but also owners of remotely controlled model airplanes and helicopters.

The rule requires that owners of recreational drones register with the FAA before operating the drone outdoors.²⁰ Failure to register a drone can subject a violator to a civil fine of up to \$27,500 and a criminal penalty of up to three years in prison.²¹ Registration may be accomplished through the FAA's new

registration website, <https://registermyuas.faa.gov/>. The registration must be in the name of a U.S. citizen at least 13 years old and costs \$5.00 for a three-year registration.²²

For drones used solely for recreational purposes, registration is required if the drone weighs between 0.55 lbs. and 55 lbs., which encompasses the majority of drones currently available for recreational use. Upon registration, the owner will receive a registration number, which must be marked on all of that owner's recreational drones. In the online registration platform's initial four months of operation, the FAA states, approximately 400,000 registrations were processed.²³

“ A key component of the revised regulations is that the operator must maintain a visual line of sight with the drone at all times. ”

Commercial Users. In June 2016, the FAA released its final rule revising the regulations affecting the commercial operation of drones.²⁴ Before the release of these updated regulations, commercial operators were required to possess a pilot's license in order to use a drone in their business. For practical reasons, many commercial operators independently contracted with a person holding a pilot's license to satisfy this requirement. Under the revised regulations, commercial operators no longer need a pilot's license but must pass a knowledge-based exam and obtain a drone-specific operator's certificate, termed a remote pilot's airmen certificate, with a small UAS rating.

A key component of the revised regulations is that the operator must maintain a visual line of sight with the drone at all times. This requirement is certain to frustrate companies such as Amazon whose executives hope to deliver packages by drone in the near future. Such companies maintain it is impractical and uneconomical to require delivery operators to keep in constant visual contact with the drone. Nevertheless, the regulations allow for operators to apply for case-specific waivers of the regulatory requirements, so there is a process for these companies to seek approval for remote drone deliveries.

Other requirements placed on commercial operators are that the drones must be operated during daylight hours, stay below 400 feet, weigh no more than 55 pounds, and travel no faster than 100 miles per hour. The new rules took effect Aug. 29, 2016.

Privacy and Trespass

The careless, malicious, or salacious operation of drones risks new civil legal claims testing current interpretations of the torts of trespass and invasion of privacy. A married couple owns an abandoned quarry near Richfield, Wis., that they are operating as a clean landfill with the hope of eventually building homes on the property.²⁵ In 2015, a neighbor flew his drone over their property and uploaded the video to Youtube so members of a group opposed to the couple's plans could check what was occurring on the property. The couple reported the incident to the county sheriff; however, the sheriff advised that no criminal privacy laws had been violated because no person was present. To date, no civil lawsuit has been filed asserting a violation of privacy rights.

Wisconsin appellate courts have yet to address invasion of privacy or trespass claims arising out of the operation of drones. As illustrated by the Richfield couple's predicament, privacy laws focus on the rights of persons to privacy with regard to their physical being, not their real property. Under Wis. Stat. section 995.50 (2), *invasion of privacy* is defined as the "intrusion upon the privacy of *another* of a nature highly offensive to a reasonable person, in a place that a reasonable person would consider private or in a manner which is actionable for trespass" (emphasis added). An aggrieved person would likely need a court to expansively interpret a right to privacy to include those portions of a person's property not generally visible.

Trespass is likewise a murky concept because the drone operator might never physically enter the property owner's land. Juries are instructed that "a person who enters or remains upon property in possession of another without express or implied consent is a trespasser."²⁶ An operator can argue that in many ways a drone acts similarly to a telescope, which permits a person to view objects from afar.

However, a key difference is that a drone may physically cross into another's real property while still connected to the operator by a live video link on the remote control. Under such circumstances, a court may be persuaded that a drone should be considered an extension of the person operating it, allowing the operator to be held liable for trespass if the drone crosses property lines.

Meet Our Contributors

What is an unconventional lesson you've learned about law practice?



Be ready for the unexpected.

The only time in my life that I have been the victim of theft was in open court with the judge on the bench (not in Wisconsin). When my motion was called, I rose from the counsel table with my notes and motion to argue from the podium. I left my briefcase at the counsel



able. When I returned from arguing the motion my briefcase was gone. Neither the judge or his staff nor the bailiff saw anything.

Courthouse security was able to review video footage of everyone who entered and left the courthouse that morning. They noticed a young lady who entered the courthouse emptyhanded but left 45 minutes later clutching a briefcase.

Later that day I received a call from a woman stating she had found a briefcase containing my business card in an alley outside the courthouse. She offered her address where I could pick up the briefcase. I contacted the police, who retrieved my briefcase and arrested the woman after verifying that she fit the description of the lady in the courthouse video footage. She had been at the courthouse for a hearing in a matter where she was a criminal defendant! She pled guilty to charges filed by the district attorney.

Kevin D. Trost, Axley Brynelson LLP, Madison.

Become a contributor! Are you working on an interesting case? Have a practice tip to share? There are several ways to contribute to *Wisconsin Lawyer*. To discuss a topic idea, contact Managing Editor Karlé Lester at (800) 444-9404, ext. 6127, or email klester@wisbar.org. Check out our writing and submission guidelines.

State or Federal Jurisdiction

Another unresolved issue is the point at which the operation of a drone becomes a strictly federal matter. The federal government claims the exclusive right over the airspace of the United States.²⁷ The FAA has been delegated authority to prescribe regulations governing the flight and operation of aircraft, including drones, in the “navigable airspace” of the country.²⁸ The FAA asserts that a state’s ability to pass laws regulating the use of airspace depends on the impetus for the law.²⁹ The FAA claims exclusive jurisdiction to create and enforce laws based on airspace use and safety.

Accordingly, under its view, states and municipalities are prohibited from imposing limits on where drones may be operated or requiring operators to complete certain training. The FAA concedes that laws passed to address privacy, land use, and local law enforcement powers are within the purview of state and local governments and are not preempted. Nevertheless, it is unlikely state and local governments will agree that their powers to restrict the operation of drones in their communities are circumscribed. This is particularly true when a drone is flying merely several feet off of the ground near local landmarks or events.

The U.S. Supreme Court has yet to resolve the issue of when state statutory and common law gives way to the federal government’s jurisdiction over the navigable airspace of the United States. The closest the Court came to addressing the topic was in a lawsuit brought by a chicken farmer near the end of World War Two.³⁰ The farmer’s land was adjacent to a military airport where planes flew as low as 80 feet above the chicken coops.³¹ Chickens died as they were startled by the planes and flew headfirst into the walls of their coops.³²

In determining that the farmer’s takings lawsuit was not defeated by the government’s immunity defense, the Supreme Court found that property owners retain the right to “exclusive control of the immediate reaches of the enveloping atmosphere.”³³ The Court stated that a property owner’s exclusive control includes “at least as much of the space above the ground as he can occupy or use in connection with the land.”³⁴ While this decision may not be instrumental to defining an exact height over which the federal government exercises exclusive control, it at least recognizes that a property owner maintains control for some distance above the blades of grass in the yard.

The FAA’s own interpretation of what constitutes “navigable airspace” may ultimately assist in defining the limits of the federal government’s exclusive jurisdiction. The FAA has interpreted the term navigable airspace to mean the space “at and above the minimum flight altitudes” and that includes the “airspace needed for safe takeoff and landing.”³⁵

These minimum flight altitudes vary between urban and rural areas. For urban areas or areas where there are assemblies of persons, the FAA has set the minimum flight altitude at 1,000 feet above the highest obstacle within a 2,000-foot radius.³⁶ For rural or uncongested areas, minimum flight altitudes are 500 feet or even lower over open water.³⁷

A case recently filed in the U.S. District Court for the Western District of Kentucky may soon offer a modern judicial impression of the issue. In 2015, William Merideth shot down a drone that was hovering over his property, stating that it was invading the privacy of his two teenage daughters.³⁸ The local prosecutor refused to pursue charges against Merideth for illegally shooting a firearm within the municipality after multiple witnesses averred that the drone was hovering approximately 10 feet off the ground in Merideth’s backyard.³⁹

In January 2016, drone operator David Boggs sued Merideth in the local federal court seeking, among other things, compensation for his ruined \$1,800 drone. Boggs contends the federal court has subject matter jurisdiction due to the federal government’s regulatory control of the airspace. A jurisdictional dispute is expected over whether the state laws of Kentucky are preempted by federal law due to the federal government’s exclusive sovereignty over national airspace.

Conclusion

As the operation of drones becomes increasingly regulated, both commercial and recreational operators must ensure that their aircraft are properly registered and then used carefully: not infringing on other people's rights and avoiding prohibited areas. Two apps, Hover and B4UFly, will allow an operator to identify if there are any no-fly zones in a particular area.

Ultimately, there is likely to be litigation involving drones that impacts legal issues of trespass and privacy and potentially defines the point at which the federal government's exclusive jurisdiction over the national airspace commences. As such cases move through the courts, we will likely gain a greater understanding of when the operation of these machines impinges on the rights of the people whose land they are traveling over and whose images they may be recording.

Endnotes

- ¹ Michael Addady, "The Number of Drones Expected to Sell During the Holidays is Scaring the Government," *Fortune* (Sept. 29, 2015).
- ² Joseph Dussault, "Seven Commercial Uses for Drones," *Boston Globe*, Web, Mar. 14, 2014.
- ³ Ralph Morris & George Thurston, "Interim Final Rule Regulatory Evaluation," U.S. Dep't of Transp., FAA, Dec. 2015, at 6-7.
- ⁴ Bart Jansen, "Small Drone Crashes Near White House Despite Ban Against Flights in D.C.," *U.S.A. Today* (Oct. 9, 2015).
- ⁵ Polly Mosendz, "Drones Interfere with Firefighters Battling California Wildfire," *Newsweek* (June 26, 2015).
- ⁶ Wayne Coffey & Joseph Stepansky, "NYC Teacher Arrested after Drone Crashes into Stands at U.S. Open," *New York Daily News* (Sept. 4, 2015).
- ⁷ Eric Limer, "Drone Slams into Seattle Ferris Wheel," *Popular Mechanics* (Nov. 12, 2015).
- ⁸ Green Bay Municipal Code § 27.310(2).
- ⁹ Green Bay Municipal Code § 6.201(9).
- ¹⁰ *Id.*
- ¹¹ Green Bay Municipal Code § 27.310(2).
- ¹² Drone Privacy Protection Act, SB 196.
- ¹³ Wis. Stat. § 942.10 .
- ¹⁴ *Id.*
- ¹⁵ Wis. Stat. § 175.55 .
- ¹⁶ *Id.*
- ¹⁷ Wis. Stat. § 941.292 .
- ¹⁸ Morris & Thurston, *supra* note 3.
- ¹⁹ FAA, *Unmanned Aircraft Systems (UAS) Frequently Asked Questions/Help*, question 1.
- ²⁰ FAA Press Release, "FAA Announces Small UAS Registration Rule" (Dec. 14, 2015).
- ²¹ FAA, *Unmanned Aircraft Systems (UAS) Frequently Asked Questions/Help*.
- ²² FAA Press Release, *supra* note 20.
- ²³ FAA, FAA News and Updates, *FAA Administrator Talks Drones at SXSW*, Mar. 14, 2016.
- ²⁴ FAA, FAA Fact Sheet, Fact Sheet – Small Unmanned Aircraft Regulations (Part 107) (June 21, 2016).
- ²⁵ Stephen Davis & Bryan Polcyn, "Aerial Trespassing? Local Battle Over Drone Use Highlights Patchwork of Laws and Regulations," *Fox6now.com* (Nov. 15, 2015).
- ²⁶ Wis. JI-Civil 8012.
- ²⁷ 49 U.S.C. § 40103.
- ²⁸ 49 U.S.C. § 40103(b)(1).
- ²⁹ FAA, Office of the Chief Counsel, "State and Local Regulation of Unmanned Aircraft Systems Fact Sheet" (Dec. 17, 2015).
- ³⁰ *United States v. Causby*, 328 U.S. 256 (1946).
- ³¹ *Id.* at 258-59.
- ³² *Id.*

City of Waterloo, WI
Tuesday, September 27, 2016

Chapter 172. Dances and Entertainment

§ 172-2. Carnival, circus, concert or other entertainment.

- A. License required. No person shall conduct for gain within the City any carnival, circus, concert, or any other similar entertainment without first obtaining a license.
- B. Application. Application for a license shall be submitted on forms supplied by the Clerk-Treasurer. The application shall be accompanied by a certificate of insurance showing that the applicant is covered by liability insurance by an insurance company licensed to do business in Wisconsin in the amount of \$300,000 for the injury or death of one person, \$1,000,000 for any one accident and \$50,000 for property damage. If the entertainment involves carnival-type rides, proof of current inspection of such rides by the Wisconsin Department of Commerce must also be furnished.
- C. Fee. The license fee shall be as stated in the City of Waterloo Fee Schedule,^[1] except that no fee shall be charged for events held or sponsored by educational, charitable, nonprofit or religious organizations when the proceeds thereof shall be devoted to the purposes of such organization.

[1] *Editor's Note: The Fee Schedule is on file at the office of the City Clerk-Treasurer.*

Mo Hansen

From: Mo Hansen <cityhall@waterloowi.us>
Sent: Wednesday, December 28, 2016 11:13 AM
To: City of Waterloo, Mayor; thomastr2000@yahoo.com
Cc: Randie Lange (rrlange@waterloowi.us); 'Angie Stinnett'; Bob Thompson Traveling (zip53594Mayor@hotmail.com); 'bspringr@charter.net'; Jeanette Petts (Jeanette.petts@yahoo.com); 'jeni@highenergydj.com'; 'Ron Griffin (griffinrepair@gmail.com)'; 'Waterloo Clerk/Treas Office'; 'Ziaja, Matt'
Subject: Operator's Licensing and the issuance of provisional licenses / Dan Loeder request for an ordinance change

Mayor Thompson & Public Safety & Health Committee Chair Thomas,

I am asking the Public Safety & Health Committee to consider Dan Loeder's request, outlined below, at its February 2, 2017 meeting.

Dan Loeder is requesting an ordinance change allowing the prompt issuance of Waterloo provisional operator's licenses to those operators in good standing, and already licensed in another community. See highlights from 223-5 (H) & 223-5 (I) below for our current municipal code. In 2004 AB 210 was signed into law saying: "licensed operators in good standing **may** receive an operator's license from a municipality immediately upon proof of certification from another municipality and the receipt of a fee, not to exceed \$15." Currently Waterloo code is more restrictive.

I interpret Dan's request to mean: (1) we administratively receive the application and fee. (2) PD checks the applicant - as it does all applicants - to ensure good standing. (3) This office issues a provisional license.

Waterloo Municipal Code

[§ 223-5 License fees. \[1\]](#)

H. Operator's license. Operators' licenses are issued every two years, to expire on June 30, as provided in § 125.17(3), Wis. Stats. Fees for new and renewal licenses are as stated in the City of Waterloo Fee Schedule. No new operator's license shall be granted unless the applicant has successfully completed a VTAE responsible beverage server training course or is otherwise exempt from such requirements under § 125.17(6)(a), Wis. Stats. **The Clerk-Treasurer may issue a provisional operator's license to a person who is enrolled in said training course and shall revoke such license if the applicant fails to successfully complete the course.** Licenses shall be renewed every two years commencing with July 1, 1997.

I. **Provisional operator's license. Fees are as stated in the City of Waterloo Fee Schedule for a license up to 60 days. (See also Subsection H above.)**

Mo Hansen

Clerk/Treasurer

City of Waterloo

office: 920.478.3025

CityHall@Waterloowi.us

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From: Mo Hansen [mailto:cityhall@waterloowi.us]
Sent: Wednesday, December 28, 2016 10:45 AM
To: Dan Loeder (dan@loederoil.com) <dan@loederoil.com>
Subject: City of Waterloo follow-up

Dan,

Thanks for stopping by the office today, and for your interest in having Waterloo's ordinances changed to allow an Licensed Operator in another community be immediately eligible for a provision license in Waterloo. As you are aware, currently Waterloo ordinances require an applicant for a provisional Operator's License to be enrolled in an alcohol beverage class.

I am forwarding your concerns to Mayor Thompson and the Public Safety & Health Committee for consideration.

Mo Hansen
Clerk/Treasurer
City of Waterloo
office: 920.478.3025
CityHall@Waterloowi.us

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INTOXICATING LIQUOR AND FERMENTED MALT
BEVERAGES

§ 223-5

§ 223-7

- Current Waterloo code*
Task: to revise to Dan's request, if desirable
- F. "Class C" wine. Fees are as stated in the City of Waterloo Fee Schedule. This license is issued to restaurants for the sale of wine by the glass. Sale of alcohol beverages must account for less than 50% of gross receipts, and no barroom is permitted if the City's "Class B" quota prohibits the issuance of a "Class B" license. [See § 125.51(3m), Wis. Stats.]
 - G. Wholesaler's fermented malt beverages. Fees are as stated in the City of Waterloo Fee Schedule.
 - H. Operator's license. Operators' licenses are issued every two years, to expire on June 30, as provided in § 125.17(3), Wis. Stats. Fees for new and renewal licenses are as stated in the City of Waterloo Fee Schedule. No new operator's license shall be granted unless the applicant has successfully completed a VTAE responsible beverage server training course or is otherwise exempt from such requirements under § 125.17(6)(a), Wis. Stats. **The Clerk-Treasurer may issue a provisional operator's license to a person who is enrolled in said training course and shall revoke such license if the applicant fails to successfully complete the course.** Licenses shall be renewed every two years commencing with July 1, 1997.
 - I. Provisional operator's license. Fees are as stated in the City of Waterloo Fee Schedule for a license up to 60 days. (See also Subsection H above.)
 - J. Temporary license. Fees are as stated in the City of Waterloo Fee Schedule for a license up to 14 days. The Clerk-Treasurer shall issue temporary licenses.
 - K. Transfer of license to another premises. Fees are as stated in the City of Waterloo Fee Schedule.

§ 223-6. Application for operator's license. [Amended by Ord. No. 90-8; Ord. No. 97-4]

All applications for a bi-yearly operator's license shall be filed in the office of the Clerk-Treasurer on or before May 31 of odd-numbered years, provided that nothing shall prevent the Council from granting any license which is applied for at least five working days before a Council meeting at any other time, which said license will expire on June 30 of the next odd-numbered year. License fees shall not be prorated even though the licenses are issued for less than a full term.

§ 223-7. License required.

No person shall vend, sell, deal or traffic in or, for the purpose of evading any law or ordinance, give away any liquor or fermented malt beverages, or cause the same to be done, without having procured a license as provided in this chapter nor without complying with all provisions of this chapter and all statutes, ordinances and regulations applicable thereto. A license shall be required for each stand, place, room or enclosure or for each suite of rooms or enclosures which are in direct connection or communication with each other where liquor and fermented malt beverages are kept, sold or offered for sale; no license shall be issued to any person for the purpose of possessing, selling or offering for sale any liquor or fermented malt beverage in any dwelling, house, flat or residential apartment.

From Dan

PMAW/WACS INDUSTRY UPDATE

April 16, 2004

In this issue

- GOVERNOR DOYLE APPROVES ASSEMBLY BILL 210
- EPA ANNOUNCES 8 HOUR OZONE DESIGNATIONS
- TOP ENERGY DEMOCRATIC SENATOR PUSHES FOR BOUTIQUE FUELS SOLUTION

GOVERNOR DOYLE APPROVES ASSEMBLY BILL 210

On Tuesday, April 13, 2004, Governor Doyle signed Assembly Bill 210 relating to reciprocity for alcohol beverages operators licenses into law. AB 210 allows licensed operators in good standing to receive a provisional operator's license from a municipality immediately upon proof of certification from another municipality and receipt of a fee, not to exceed \$15. Current law states that no retail location serving or selling alcohol beverages may be open for business unless an individual with a valid alcohol beverages operator's license is present. AB 210 provides retailers greater flexibility in shifting qualified personnel between retail locations.

EPA ANNOUNCES 8 HOUR OZONE DESIGNATIONS

The EPA has announced 5 non-attainment areas in Wisconsin: Door County, Kewaunee County, Manitowoc County, Milwaukee-Racine Area (Kenosha, Milwaukee, Ozaukee, Racine, Washington and Waukesha counties) and Sheboygan County. This is a very important issue for petroleum marketers because one method of bringing non-attainment areas into compliance with federal air quality standards is through the introduction of reformulated gasoline. RFG is a "boutique fuel" that carries with it significant supply, price and compliance issues for petroleum marketers in areas where it is used. The new standard establishes a maximum ozone level of 0.08 parts per million averaged over an eight-hour period. The old standard, which will be enforced by EPA until June 15, 2005, is 0.12 ppm averaged over a one-hour period. The implementation rule sets forth seven classifications of non-attainment areas based on the severity of ozone pollution levels. Non-attainment areas violating the one-hour standard are classified as marginal, moderate, serious, severe, or extreme based on the severity of their ozone problem. Areas with more severe classifications must impose stronger pollution control requirements, but also will have more time to meet the stricter federal air quality standard. States will generally phase-in over a period of time air pollution reduction controls such as RFG, HOV lanes, enhanced vehicle and maintenance inspections, etc. to meet federally imposed deadlines ranging from June 2007 for marginal areas to 2021 areas classified as severe. To review the list, go to www.epa.gov/ozonedesignations.

TOP ENERGY DEMOCRATIC SENATOR PUSHES FOR BOUTIQUE FUELS SOLUTION - NACS ONLINE

WASHINGTON, DC -- In a letter to Secretary of Energy Spencer Abraham and Environmental Protection Agency (EPA) Administrator Mike Leavitt, Sen. Jeff Bingaman (D-NM), ranking member on the Energy and Natural Resources Committee, called for the administration to embark

have held a retail license, manager's or operator's license anywhere in the state within the last two years. Sec. 125.17(6).

- d. There is no statutory residency requirement.

4. Application and issuance

An application for an operator's license must be in writing. A municipal governing body must issue an operator's license to any applicant who is qualified under state law. Sec. 125.17(1).

5. Fee and duration

The fee is determined locally.

An operator's license may be issued for one or two years, as determined by the governing body, to expire on December 31 in 1st class cities (Milwaukee) and on June 30 in the rest of the state. Sec. 125.17(3).

6. Validity

An operator's license is valid only in the municipality where issued. Wis. Stat. sec. 125.17(2). There is no county or statewide operator's license. However, an operator's license issued in respect to a vessel under sec. 125.27(2) is valid outside the municipality that issues it. Sec. 125.32(2).

7. Provisional operators' licenses: Sec. 125.17(5)

- a. A municipality which issues operator's licenses is required to issue provisional operator's licenses. The governing body may by ordinance establish standards under which provisional licenses will be issued and designate the official authorized to issue the license. A municipality must issue a provisional license to a person who, at the time of applying for an operator's license and paying the fee, files a certified copy of a valid operator's license issued by another municipality. Sec. 125.17(5)2.
- b. When provisional licenses were first enacted, it was widely presumed that it was to allow applicants time to comply with the responsible beverage training requirement which wasn't readily available. Although some municipalities require that an applicant needs to be enrolled in the class to receive a provisional license, that is not a statutory requirement and it would seem odd to deny a provisional license to an applicant who has completed the training, while issuing one to someone who is simply enrolled in the responsible beverage server training course. The provisional license is good for a period not to exceed 60 days, or until a regular license is issued. The municipality must revoke a provisional license if the applicant fails to successfully complete the training course and may revoke a license if it discovers that the holder made a false statement on his or her application.
- c. The fee is determined by the governing body but may not exceed \$15.

8. Temporary operators' licenses: Sec. 125.17(4)

- a. A governing body may issue temporary operators' licenses only to persons employed by or donating their services to nonprofit corporations.
- b. A person is limited to only one such license in a year.
- c. The license is valid for any period from one to 14 days, and the period must be indicated on the license. The governing body should establish a fee for this type of license.

FAX COVER SHEET



Waterloo Intermediate/Middle School

865 North Monroe Street

Waterloo, WI 53594

Phone: 920-478-2696

Fax: 920-478-3987

DATE: 12/18/16

TO: City of Waterloo

FROM: Aaron Erickson

FAX: 478-2021

PAGES (including this page): 10

COMMENTS: _____

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136 NORTH MONROE STREET, WATERLOO, WISCONSIN 53594-1198
Phone (920) 478-3025
Fax (920) 478-2021
cityhall@waterloowis.com

APPLICATION FOR SPECIAL EVENT or ENTERTAINMENT LICENSE

Any Special Event or Entertainment Event sponsor requesting municipal approvals, services, assistance, and/or other support from the City of Waterloo for a special or entertainment event on public or private property must provide the following information.

Submittal of application does not constitute approval. All applications must be reviewed.

NAME OF SPONSOR (Applicant): Waterloo School District (Character Shuffle 5K)

STATUS: (circle one) unincorporated incorporated individual other _____

CONTACT NAME: Aaron Erickson

PHONE NUMBER: 920-478-3683 / 608-206-0589 / 920-478-9589
DAYTIME EVENING FAX

EMAIL ADDRESS: ericksona@waterloo.k12.wi.us

NAME OF EVENT: Waterloo School District Character Shuffle 5K Run/Walk

TYPE OF EVENT: (circle one) Festival Parade Caravan Rally March
Race Tag Day Other _____

PURPOSE OF EVENT: _____

DATE OF EVENT: May 5th 2017

EVENT HOURS: 12:00-3:15 SET UP HOURS: Evening Before BREAKDOWN: 5:00 evening of event

DESCRIPTION OF EVENT: 5K Run/Walk

SITE/ADDRESS FOR EVENT (list if multiple locations) Map Attached

PROJECTED ATTENDANCE: 400+ PAST ATTENDANCE: 400+

NUMBER OF VOLUNTEERS/PERSONNEL FOR EVENT: 20-40 Adults

RAIN POLICY: None - Event Cancelled

DATE APPLICATION MADE: December 18th 2016

Pursuant to Section 12.06 Waterloo Municipal Code
Application for Special Event or Entertainment License

Form created: 03/11/2004

HOLD HARMLESS CLAUSE:

The special event or entertainment sponsor hereby agrees to indemnify and hold harmless the City of Waterloo, Wisconsin, its agents, public officials, officers, employees and authorized volunteers, from and against any and all legal actions, claims, damages, losses, expenses arising out of the permitted event/activity or any activity associated with the conduct of the sponsor's operation of the event, including but not limited to, claims for personal or bodily injury, disease or death, or injury to or destruction of property, excluding claims caused by the willful commission or omission by employees of the City of Waterloo acting within the scope of their employment.

Further, the event sponsor agrees to indemnify the City of Waterloo and any of its agents, public officers, officials or employees and authorized volunteers for any attorneys fees and court costs incurred or to be incurred in defending any actions brought against them as a result of the sponsor's use of public property or operation of the event as set forth in the application for special permit.

INSURANCE REQUIREMENTS:

Proof of insurance is required of all Special or Entertainment Event Sponsors before the event. The attached list of insurance requirements should be reviewed immediately with your Insurance Agent to comply. Please provide a Certificate of Insurance with your completed application by, _____ 20__ to the **City Clerk's Office 136 N. Monroe Street, Waterloo, WI. 53594.** Insurance coverage shall be from companies and in amounts acceptable to the City of Waterloo. Failure to provide said acceptable insurance coverage in a timely manner is grounds for non-issuance or revocation of the permit.

PERMITTED USE OF PUBLIC PROPERTY:

Whereas the Special or Entertainment Event Sponsor agrees to use the public property at _____ in Waterloo, Wisconsin, known as, for staging of, the City of Waterloo does hereby agree to permit for use, at no cost, these premises for the date(s) of _____ through _____ 20___. Sponsor does hereby agree to conduct only that business/activity which is described in the Special Event Permit Application, and agrees to all municipal requirements. Sponsor further agrees that within thirty (30) days of the conclusion of the event it will, at its own expense, provide for the repair, replacement or maintenance of any damaged, lost or stolen portions of the subject property including, but not limited to landscaping, street or buildings and/or pavement.

LIABILITY WAIVER:

The event sponsor agrees for itself and/or its employees, agents, or volunteers associated or to be associated with the activity for which the permit is being sought, to waive and relinquish all claims that may result in any manner against the City of Waterloo, its agents, public officers, officials or employees and authorized volunteers from said sponsored event or activity, except for acts caused by the willful and wanton misconduct by employees of the City of Waterloo acting within the scope of their employment.

AUTHORIZED SIGNATURES:

I hereby attest that I am authorized to bind the sponsor and/or its employees, agents, or volunteers associated or to be associated with the activity for which the permit is being sought, to the terms of this agreement. I have read and understand all regulations and requirements outlined herein. I/we do hereby agree to abide by all rules and regulations outlined herein. I/we hereby agree to meet all requirements for documentation, certification, licensing, financial responsibility and all other aspects of staging a Special Event in the City of Waterloo, as outlined herein. I/we understand that our lack of meeting all requirements outlined herein may result in the denial or cancellation of the proposed Special or Entertainment Event. **Permit applied for and all terms and stipulations agreed to by:**

Aaron Erickson
Name (please print)

Aaron Erickson
Signature

Ath. Director / Teacher / Wellness Coord.
Signatory Title (if applicable)

12/18/16
Date

Pursuant to Section 12.06 Waterloo Municipal Code
Application for Special Event or Entertainment License

Form created: 03/11/2004

THIS APPLICATION, WITH A DETAILED SITE PLAN ATTACHED, AND ANY OTHER APPLICABLE DOCUMENTS AS OUTLINED HEREIN, MUST BE REMITTED TO THE CLERK'S OFFICE NO LATER THAN NINETY DAYS (90) PRIOR TO THE OPENING DAY OF THE EVENT. Application received late or incomplete may be denied. Direct mail to the **City Clerk, City of Waterloo, 136 N. Monroe Street, Waterloo, WI. 53594.** A copy of the application will then be forwarded to the appropriate committees and or Departments for consideration of approval, denial, and scheduling.

Date application received: 12/18/16 Received by: Email

Clerk's Office to complete the section below:

Cc:	<u>Approval date or permit number</u>
<input type="checkbox"/> Animal Control	<input type="checkbox"/> Public Works
<input type="checkbox"/> Fire Department	<input type="checkbox"/> Utilities
<input type="checkbox"/> Building & Permits	<input type="checkbox"/> Public Health Inspector
<input type="checkbox"/> Police Department	
<input type="checkbox"/> City Clerk	
<input type="checkbox"/> Public Property Use	
<input type="checkbox"/> Building Inspector	
<input type="checkbox"/> Certificate of Insurance	
<input type="checkbox"/> Fire Department	
<input type="checkbox"/> Council Approval	

Fee for Profit Events = \$50.00 per event.

Fee is WAIVED for events held or sponsored by educational, charitable, nonprofit, or religious organizations when the proceeds are devoted to the purposes of such organization.

Fee Paid: _____

Date Paid: _____

Received by: _____

Pursuant to Section 12.06 Waterloo Municipal Code
Application for Special Event or Entertainment License

Form created: 03/11/2004

Attachment 1

CITY OF WATERLOO INSURANCE REQUIREMENTS FOR SPECIAL EVENTS

1. The City of Waterloo requires submission of a Certificate of Insurance along with the Special or Entertainment Events Application prior to review by the City's Government Operations Committee.
2. The Certificate of Insurance must include the following **minimum** limits of insurance coverage required for special events on City property:
\$300,000 Injury or death of one person; \$1,000,000 for any one accident; \$50,000 for Property Damage.
3. The City of Waterloo must be named on the Certificate of Insurance as **primary, non-contributory additional insured** under the general liability policy for the event.
4. The Certificate of Insurance must include the name of the special event, and the date, time and location of the event.
5. The City of Waterloo reserves the right to request a copy of the actual policy represented by the Certificate of Insurance.
6. **No event will be allowed to proceed without receipt by the City of a valid Certificate of Insurance in full compliance with the above listed requirements.**

Any questions regarding these insurance requirements should be directed to the City Clerk's Office at (920) 478-3025

SPECIAL EVENT or ENTERTAINMENT WORKSHEET

NAME OF EVENT: Waterloo School District Character Shuffle

5K Run/Walk

DATE (S) OF EVENT: May 5th HOURS: 12:00 PM-3:15 PM

LOCATION/PROPERTY: Beginning @ H.S. Tracks (see Map)

SAFETY PROCEDURES:

1) Will you be providing private on-site security? YES **NO**

If yes, list security company name. _____

Where will security be needed? _____

What times will security be needed? _____

Will WPD officers be required? **YES** NO

Municipal estimation of cost: _____ WPD Personnel @ \$ _____ /hour = \$ _____

2) What are your plans for medical assistance? First Aid Station - Staffed by School Staff

Municipal estimation of cost: _____ WFD equipment/personnel @ _____ \$ hours = \$ _____

3) Will there be fireworks at your event? YES **NO**

Date of fireworks _____ Time of Fireworks _____

Name/Address of company supplying fireworks _____

Fire Marshall must be contacted for approval and consultation.

SET UP / CLEAN UP PROCEDURES:

1) Name of person in charge of set up: Waterloo School Staff / Volunteer Parents phone # 478-3633

2) What time will set up begin: Evening of Night Before

3) Name of clean up contact person: Aaron Erickson Cell Phone# 608-206-0589

4) Estimated time for clean up after event: 3:15 PM-5:00 PM

FEES AND PROCEEDS:

1) Will admission be charged for this event? YES **NO**

If yes, how much: Adult _____ Seniors _____ Students _____

Children 5 & under _____ Families _____

2) If a participant fee is charged, please indicate the amount: Booth: _____

Concessionaire: _____

3) Will alcoholic beverage(s) be sold? YES NO

If yes, what beverage and at what cost? _____

4) What does the Sponsor intend to do with any revenue over and above the expenditures? _____

(If this is a first year event, please provide a budget. If it is a repeat event, provide last year's financials.)

ENTERTAINMENT AND PROMOTIONS:

2) List names of performers and entertainment groups:

2) Describe other entertainment / activities planned for your event: _____

3) How will your event be promoted? Television Radio Newspapers Posters Flyers
other Letters to business owners / Parents

PUBLIC PROPERTIES PROCEDURES:

If you are requesting city services, please complete the following area:

1) Will you need barricades? YES NO

Purpose of barricades: _____

Location of placement: _____ Amount needed _____

Date barricades needed _____ Time of placement _____

Name of company providing service if other than City _____

2) Will you require electrical service(s) YES NO

Entertainment: number of amps _____ = _____ lines @ \$20 Cost \$ _____

Equipment being used: _____

Location _____ Entainer name _____

Entertainment: number of amps _____ = _____ lines @ \$20 Cost \$ _____

Equipment being used: _____

Location: _____ Entainer name _____

Waterloo, WI

Concessions: _____ amps= _____ lines @ \$20 Cost \$ _____

Equipment being used: _____

Location: _____

Concessions: _____ amps= _____ lines @ \$20 Cost \$ _____

Equipment being used: _____

Location: _____

Name of company providing service if other than City: _____

3) Will you need fencing installed? YES NO

Purpose of fencing: _____

Location: _____ Amount: _____

Date needed _____ Time needed _____

Estimated costs: _____ locations @ \$100. = \$ _____ Total costs

4) Will parking considerations be needed YES NO

Type(s) _____

Location: _____ Amount _____

Date: _____ Time: _____

5) Will picnic tables be needed? YES NO

Location _____ Amount _____

Date needed: _____ Time needed _____

Estimated cost(s) _____ Picnic tables @ \$5.00 per table = \$ _____

6) Is a street sweeper needed? YES NO

Location _____ Date _____ Time _____

Estimated cost(s) _____ hours @ _____ = \$ _____ total cost

Name of company providing service, if not City: _____

7) Will you need additional trash bins? YES NO

If yes how many requested? Cardboard trash bins _____ Barrels 2 @ water Stations

Where do you want them placed? Corner of Hendrick & Cleveland

Name of disposal company if other than the City: _____

Where will dumpster be place: _____

8) Will water connection be needed?

YES

NO

Location _____ Amount _____

Date _____ Time _____

Estimated costs: _____ connection(s) @ \$20.00 = \$ _____ Total water costs

