

CHAPTER 12
LICENSES AND PERMITS
 (Repealed & Recreated Ordinance # 2850 – 10/5/2019)

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12.01 GENERAL PROVISIONS.

(1) **LICENSES OR PERMITS REQUIRED.** No person shall engage in any trade, profession, business or privilege in the City for which a license or permit is required by any provision of this Code without first obtaining such license or permit from the City in the manner provided in this chapter, unless otherwise specifically provided.

(2) **APPLICATION.** Unless otherwise provided, application for a license or permit shall be made in writing to the City Clerk upon forms provided by the Clerk and the applicant shall state the location of the proposed activity and such other facts as may be required for or be applicable to the granting of such license or permit.

(3) **PAYMENT OF FEE.**

(a) **General.** The fees required for any license or permit shall be paid at the Finance Department upon application for the license or permit.

(b) **Alcohol Beverage Licenses.** The publication fee for alcohol beverage license shall be paid at the Finance Department with the application. The alcohol beverage license fee shall be paid not less than 15 days prior to the date the license is to be issued, or a late fee of \$50.00 will be charged.

(c) **Late Fees.** Applications for the renewal of alcohol beverage licenses, Secondhand Article, Secondhand Jewelry, Pawnbroker, Massage establishment, Tattoo and Body Piercing establishment, Amusement Arcade, Junk dealers, Coins and Precious Metals Licenses filed after the specified deadline shall be accompanied by a late fee.

(4) **BOND AND INSURANCE.** Satisfactory evidence of coverage by bond or insurance shall be filed with the City before the license or permit is issued.

(5) **APPROVAL OR DENIAL OF LICENSES OR PERMITS.**

(a) **Approval by City or State Official.** When the approval of any City official or State official is required prior to the issuance of any license or permit, such approval must be presented to the City before any license or permit is issued.

(b) **Restrictions.** No license or permit shall be approved or issued by the city if it appears that the conduct of the activity for which a license or permit is sought will be contrary to the health, safety or welfare of the public or any regulation, law or ordinance applicable to such activity.

(c) **Unpaid Debts.**

1. No license or permit shall be issued to any person who has not paid an overdue forfeiture resulting from any violation of any ordinance of the city.

2. Nonpayment of any debt or claim owed to the City by an applicant shall constitute grounds for denial or non-renewal of a license or permit.

(d) Exceptions.

1. No license shall be denied under this section for a dog or cat license.

2. No license or permit shall be denied under par. (c) 1. above to any person who is appealing the imposition of a forfeiture.

(e) Misrepresentation of Applications. Fraud, misrepresentation or incorrect statements regarding conviction for any criminal charge contained in an application for a license pursuant to this chapter may be the basis for denial of the license. No license may be issued to any person who has had a license denied pursuant to this section for a period of 12 months from the date of the application.

(6) FORM. Licenses and permits shall show the name of the licensee or permittee, the date of issue, the activity licensed and the term of the license or permit, and shall be signed in the name of the City by the City Clerk and be impressed with the City seal. The Clerk shall keep a record of all licenses and permits issued.

(7) LICENSE AND PERMIT TERM.

(a) Unless otherwise provided, the term of the license year shall end on June 30 of each year.

(b) When the issuance of a license for a period of less than one year is permitted, the effective date of such license shall commence with the date of issuance.

(c) Permits shall be issued for the term set forth in the permit.

(8) EXHIBITION OF LICENSES OR PERMITS. Every licensee or permittee shall carry his license or permit upon his person at all times when engaged in the activity for which the license or permit was granted, except that where such activity is conducted at a fixed place or establishment, the license or permit shall be exhibited at all times in some conspicuous place in his place of business. The licensee or permittee shall exhibit the license or permit upon demand of any police officer or person representing the issuing authority.

(9) TRANSFER. Unless otherwise provided, no license or permit shall be transferable or assignable.

(10) RENEWAL. Unless otherwise provided, license or permit renewals shall be issued in the same manner and be subject to the same conditions as the original license or permit.

(11) SUSPENSION AND REVOCATION OF LICENSES AND PERMITS. Except as otherwise specifically provided, any license or permit granted under this chapter may be suspended or revoked by the Council for cause after giving the licensee or permittee an opportunity to be heard, as provided by law. Cause may include the following:

- (a) Fraud, misrepresentation or incorrect statement contained in the application or made in carrying on the licensed or permitted activity.
- (b) Conviction of any crime or misdemeanor, subject to §111.321, 111.322 and 111.335, Wis. Stats.
- (c) Conducting such activity in such manner as to constitute a breach of the peace or a menace to the health, safety or welfare of the public, or a disturbance of the peace or comfort of residents of the city upon recommendation of the appropriate city official.
- (d) Expiration or cancellation of any required bond or insurance.
- (e) Actions unauthorized or beyond the scope of the license or permit granted.
- (f) Violation of any regulation or provision of this Code applicable to the activity for which the license or permit has been granted, or any regulation or law of the State so applicable.
- (g) Failure to continuously comply with all conditions required as precedent to the approval of the license or permit.

(12) **CRIMINAL HISTORY INFORMATION SEARCH** - For all applications required by this Code where a license or permit is required, the Police Department shall conduct a criminal history information search concerning all persons named on the license application from any municipal, state, and federal law enforcement agencies maintaining such records.

(13) **LICENSING DENIAL, SUSPENSION OR REVOCATION ON ARREST OR CONVICTION RECORD UNDER THE FAIR EMPLOYMENT LAW.** The licensing agency may deny, suspend or revoke a license to an individual who was subject to a pending criminal charge if the circumstances of the charge substantially relates to the circumstances of the particular licensed activity. It is not employment discrimination to deny, suspend or revoke a license of an individual who has been convicted of any felony, misdemeanor, or other offense the circumstances of which substantially related to the circumstances of the particular licensed activity. When denying, suspending or revoking a license, the city shall consider a list of factors, such as the seriousness of the crime and relevant mitigating circumstances.

Exceptions:

- (a) A license cannot be refused, or suspended, based on a substantially related pending criminal charge, unless the charge is for one or certain specified crimes against a child or life and bodily security, or a violent crime against a child.
- (b) A license cannot be refused, barred or suspended, if the individual was adjudicated delinquent of an offense under the Juvenile Justice Code, unless the offense was one of certain specified crimes against a child or life and bodily security.

(c) If a license is denied or terminated based on a prior conviction the individual may state by testimony to the granting body or in writing any mitigating factors or evidence of rehabilitation and fitness to engage in the licensed activity.

1. Competent evidence of rehabilitation and fitness includes, but is not limited to:

a. Documentation showing that the person was honorably discharged or separated under honorable conditions from the military and had no subsequent criminal convictions.

b. Documentation showing that the person completed his or her probation, extended release or parole and if the person served time in a correctional institute, that one year has passed since his or her release without subsequent conviction of a crime.

c. Documentation of treatment programs such as AODA counseling.

(14) FINDINGS FOR DENIAL, SUSPENSION OR REVOCATION OF LICENSES. If the city denies, suspends or revokes any license pursuant to the provisions of the Fair Employment Act, the city shall adopt oral findings of the reason for the denial, suspension or revocation. Any person so affected may request written findings within fourteen days or receiving notification of the denial, suspension or revocation. Within thirty days of receiving a request, the city shall adopt written findings documenting the basis for the denial, suspension or revocation of the license.

12.02 ALCOHOL BEVERAGES.

(1) STATE STATUTES ADOPTED. The provisions of Ch. 125, Wis. Stats., regulating the sale of alcohol beverages, except for §§125.075, 125.085(3) (a) 2, 125.105 (2) (b), 125.11, 125.66 (3), 125.68 (12) and any provisions establishing the penalty to be imposed for a violation of that chapter, are adopted hereby and made a part of this section by reference. A violation of any such provision shall constitute a violation of this section.

(2) APPLICATION INVESTIGATION.

(a) New Application. (Am. Ord. #2859 – 04/25/2020) New Application. The City Clerk shall notify the Chief of Police and the Building Inspector of each new license and permit application and these officials shall review such application and inspect, or cause to be inspected, the premises to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto. These officials shall furnish to the City Clerk and the Licensing Board, in writing, the information derived from such investigation. Upon receipt of information, the City Clerk may refer any Operators' license to the Licensing Board for recommendation or may grant Operators' Licenses pursuant to Sections 12.02(4) and (5) of the Municipal Code. The recommendations of the Licensing Board shall be forwarded to the Council for action. Except as described in Sections 12.02(4)(5), and (6) of the Municipal Code, no license or Permit provided for in this section shall

be issued without the approval of a majority of the Council.

(b) **Renewal Applications.** The City Clerk shall notify the Chief of Police of each renewal license and permit application and shall review such application. The Chief of Police shall furnish to the Licensing Board the information derived from such investigation. The recommendations of the Licensing Board shall be forwarded to the Council for action. No license or permit provided in this section shall be issued without the approval of a majority of the Council.

(3) **CLASSES OF LICENSES.** The list of fermented malt beverage and intoxicating liquor licenses shall be as follows:

- (a) Class "A" Fermented Malt Beverages License.
- (b) Class "B" Fermented Malt Beverage License. A 6-month license may not be renewed in the same calendar year.
- (c) "Class A" Intoxicating Liquor License.
- (d) "Class B" Intoxicating Liquor License.
- (e) Reserve "Class B" Intoxicating Liquor License.
- (f) "Class C" Wine License
- (g) Operator's License.
- (h) Provisional Operator's License.
- (i) Temporary Operator's License.
- (j) Transfer of License to another premises.
- (k) Provisional Retail License.
- (l) "Class B" (Wine Only) Winery.
- (m) Temporary Class "B" (picnic) beer license. There is no limit on the number of beer licenses in a calendar year.
- (n) Temporary Class "B" (picnic) wine license. Not more than two wine licenses may be issued in a calendar year.
- (o) Temporary B-Beer Walk license. There is no limit on the number of beer licenses in a calendar year.

(p) Temporary B-Wine Walk license. Not more than two wine licenses may be issued in a calendar year.

(q) Sidewalk Cafes Extension of Premise. To create an outdoor seating area on part of public right of way.

(r) Outdoor Service Area Extension of Premise. To create an outdoor seating area on licensed premise.

(s) Commercial Quadricycle. The City of West Bend prohibits the consumption of fermented malt beverages by passengers on a commercial quadricycle within the municipality. §125.10(5)

(4) OPERATOR'S LICENSE. Operator on duty required. Any person 18 or older who is serving or selling alcohol beverages in an establishment with a Class A, B or C license must obtain an operator's license (commonly called a "bartender's license") unless the person is under the "immediate supervision" of the license holder for the establishment; the agent for the license holder; someone with the privilege of an operator's license; or another individual permitted under Chapter 125 of the Wisconsin Statutes.

(a) Requirements applying to other alcohol beverage license also apply to Temporary "Class B" (picnic licenses), including, but not limited to, the requirement is the presence of a licensed operator to serve wine or beer and/or supervise the serving and selling.

(b) Operator's licenses shall be issued to individuals by the City for the purpose of complying with §125.32(2) and 125.68(2), Wis. Stats. Operator's licenses shall be issued only upon written application forms provided by the City Clerk.

(c) All applications for an operator's licenses shall be filed in the office of the City Clerk on or before May 31 of each year, together with the license fee.

(d) Operator's licenses are issued to individual persons, and allow the licensee to serve or sell at any licensed establishment. Operators shall carry their license at all times when they are serving or selling alcohol beverages.

(e) Criteria for Issuance. Licenses and permits related to alcoholic beverages issued to natural persons under this Chapter may be issued only to persons who fulfill all of the following requirements:

1. The person must be at least 18 years of age.
2. All applicants for an operator's license shall successfully pass a responsible beverage servers course as required in Section 125.04(5), Wisconsin Statutes.
3. The applicant shall consent to the taking of a current photograph of his or her person by the City

4. Shall authorize the City to obtain a report of his or her criminal history from any enforcement agency maintaining such records.

(f) Issuance of Operator's License by City Clerk. (Cr. Ord. #2859 – 04/25/2020) Pursuant to Section 125.17(1), Wis. Stats., the City Clerk shall be authorized to issue Operators' Licenses. Any license application for which the Chief of Police or City Clerk recommend denial shall be referred to the Licensing Board for recommendation and the Common Council for issuance.

(5) TEMPORARY OPERATORS' LICENSES. The City shall issue temporary operators' licenses under the terms of this ordinance except that:

(a) The license may be issued only to operators employed by or donating their services to nonprofit organizations.

(b) No person may hold more than one temporary operator's license per year.

(c) The license is valid for any period from 1 day to 14 days, and the period for which it is valid shall be stated on the license.

(d) Issuance of Temporary Operator's License by City Clerk. (Am. Ord. #2859 – 04/25/2020) Pursuant to Section 125.17(1), Wis. Stats., the City Clerk shall be authorized to issue temporary operators' licenses. Any license application for which the Chief of Police or City Clerk recommend denial shall be referred to the Licensing Board for recommendation and the Common Council for issuance.

(6) PROVISIONAL OPERATORS' LICENSES. Provisional operators' licenses shall be issued according to the following:

(a) The City Clerk is authorized to issue a provisional operator's license to a person who has submitted an initial application for an operator's license and provided the information contained in the application meets the qualifications for issuance of licenses related to an operator's license, and provided further that the person has not previously been denied an operator's license within one year by the City.

(b) The fee for provisional operators' licenses shall be non-refundable and shall not apply towards any other operator's license under this section.

(c) A provisional operator's license shall expire 60 days after its issuance or licensed under subsection (5) of this section is issued to the holder, whichever is sooner.

(d) The City Clerk may revoke a provisional operator's license if it is discovered that the holder of the license made a false statement on the application.

(7) ALCOHOL LICENSE APPLICATION.

(a) General. An application for a license to sell, serve or otherwise deal in alcohol beverages shall be made in writing on the form prescribed by sec. 125.04 (3), Wis. Stats., and shall be filed with the City Clerk not less than 15 days prior to the granting of the license.

(b) Fees. The appropriate license fee is required to be paid when the license will be issued within 15 days of submitting the license application. The cost of publication as provided by s. 125.04(3) (g) 6., Wis. Stats., shall be submitted to the City Clerk at the time of submitting the license application.

(8) QUALIFICATIONS AND PROCEDURES FOR LICENSES AND PERMITS.

(a) Natural Persons. Licenses related to alcohol beverages, issued to natural persons under this section, may be issued only to persons who:

1. Do not have an arrest or conviction record, subject to §111.321, 111.322 and 111.335, Wis. Stats.
2. Have been residents of this State continuously for at least one year prior to the date of filing the application for license, except that a Class B or Class C license may be issued to a person who has been a resident of the State continuously for 90 days prior to the date of the application.
3. Have attained the legal drinking age.

(b) No music or other amplified noise may be played after 11:00 p.m. that is audible outside of the building which is the licensed premises.

(c) The City Council may consider, without limitation by enumeration, each of the following when evaluating, on a case by case basis, applications for initial retail "Class A", "Class B", Class "A", or Class "B" licenses:

1. The total number of Class A and B licenses presently issued and, if an additional license is requested, the public need, desirability and purpose;
2. The relevant experience and background of an individual applicant; if a partnership, the relevant experience and background of the partners; and if a corporation, the relevant experience and background of the directors, officers and agent;
3. Whether the granting of a license is necessary for the financial success of a proposed business;
4. The effect of granting the license on local traffic and parking;
5. The proximity of the location at which the license is proposed to be used to, among other, schools, churches, residential neighborhoods and/or any other Class A or Class B establishments licensed by the City;
6. The premise meets the standards for occupancy of this type;

7. The economic benefit to the community;
8. The amount of employment the business will generate;
9. Past experience of the applicant or other license holders at the location at which the license is proposed to be used; and
10. The overall effect on the community of the use of the license at the proposed location.

(d) The City Council may consider, without limitation by enumeration, each of the following when evaluating, on a case by case basis, the application for the renewal of a "Class A" or "Class B" or Class "A" or Class "B" license:

1. The performance of the applicant under the previously issued license.
2. The effect of the prior use of the license on local traffic and parking.
3. The effect, if any, of the prior use of the license on adjacent residential neighborhoods and the overall effect of the prior use of the license on community.

(e) Responsible Beverage Server Training Course. Individuals, partners and agents of corporations and limited liability companies must have successfully completed a DOR-approved responsible beverage server training course unless:

1. The person is renewing a license; or
2. Within the past two years the applicant held a manager's or operator's license or held or was an agent of a corporation or limited liability company that held a Class "A" beer, Class "B" beer, "Class A" liquor, "Class B" liquor, or "Class C" wine license; or
3. Within the past two years the person successfully completed such a training course.

(f) Provisional Retail License. The City Clerk may issue a provisional retail license to an applicant for a Class "A", Class "B", "Class A", "Class B", or "Class C" license, which authorizes only the activity allowed by the type of license applied for. A provisional retail license may be issued only upon the Clerk's determination that the applicant qualifies for the type of license applied for and upon payment of both the fee for the provisional retail license and the cost of publication for the type of retail license applied for. Only one provisional retail license may be issued to an applicant per calendar year for each type of license. A provisional retail license may be revoked by the Clerk for any fraud, misrepresentation or incorrect statement in the application. Otherwise it expires 60 days after issuance or upon issuance or denial by the Common Council of the Class "A", Class "B", "Class A", "Class B", or "Class C" license, whichever occurs sooner.

(g) Transfer of license to another premise. For any proposed transfer of a "Class A" or "Class B" or Class "A" or Class "B" license the City Council may consider:

1. The appropriate zoning and suitability of the new location for a use of this type.
2. The effect of transferring the license on local traffic and parking;
3. The proximity of the new location to schools, churches, residential neighborhoods, and other licensed establishments;
4. Other business activities conducted on the premises;
5. The ability of the licensee to restrict access to intoxicating liquors and fermented malt beverages to minors; and
6. The proximity of large numbers of minor children in or outside of the licensed premises which may inhibit proper control over alcohol products or may increase the necessity for the presence of law enforcement to control access to and illegal sale of intoxicating liquors and fermented malt beverages to minors.
7. No license is entitled to be transferred to another location.

(h) Temporary Class "B" (Picnic) License. The City Clerk is authorized pursuant to § 125.26(6) and 125.51(10), Wis. Stats., to issue a license for the sale of fermented malt beverages or wine at picnics or similar gatherings. Conditions for the issuance of a license in addition to the requirements of Ch. 125, Wis. Stats., shall be as follows:

1. At least one holder of an operator's license shall at all times be present in the licensed premises where fermented malt beverages and wine are sold or offered for sale at an event for which a Class "B" fermented malt beverage or Class "B" wine picnic license has been issued.
2. The licensee must provide sufficient security personnel to ensure that fermented malt beverages and wine are not consumed outside of the approved areas specified for the consumption of such beverages.
3. Underage persons may be authorized on the premise for which a Temporary Class "B" license has been issued. The authorization will be on a case by case basis.
4. For outdoor events, the licensed premises shall be defined and delineated as required by the Police Department.
5. The organizers shall post notices at each exit of the licensed premises stating, "No beer or wine will be carried in an open container beyond this point."

6. The organizer shall provide adequate sanitary facilities, lighting, and other measures to ensure the health, safety and convenience of the public while attending the event.

7. Wrist bands or other method acceptable to the Police Department shall be used to identify underage patrons.

8. Alcohol sales must end no later than 11:00 p.m.

9. Outdoor events are subject to the following additional regulations:

a. A fence or other barrier must be installed around the points of sale to control ingress and egress and a responsible individual shall be posted at the entrances and exits.

b. Beverages cannot be served in glass containers;

(i) Wine or Beer Walks. The City Clerk is authorized to issue licenses for wine or beer walks. A wine or beer walk is a single-day event at which customers are served a glass of beer or wine at multiple locations during their shopping visits.

1. Wine Event.

a. May be issued to a qualified organization, including a chamber of commerce or similar civic or trade organization organized under chapter 181 of Wis. Stats.

b. May issue up to 20 Temporary “Class B” (wine only) licenses for a single day, multiple-location event on a specific date and time.

c. An admission fee must be charged for participation in the event and no additional fee can be charged for the wine.

d. No person may serve wine after 9:00 p.m.

e. A qualified organization may receive up to two events during a calendar year. (This counts as a Temporary Class “B” picnic license.)

f. A licensed operator must serve the wine.

g. Wine must be purchased from a liquor wholesaler or breweries /brewpubs authorized to self/distribute to retail.

2. Beer Event

a. May be issued to a qualified organization, including a chamber of commerce or similar civic or trade organization organized under chapter 181 of Wis. Stats.

- b. May issue up to 20 Temporary “Class B” (beer only) licenses for a single day, multiple-location event on a specific date and time.
- c. An Admission fee must be charged for participation in the event and no additional fee can be charged for the beer.
- d. There is no limit to the number of Temporary Class “B” (beer) license.
- e. A licensed operator must serve the beer.
- f. Beer must be purchased from a beer wholesaler or breweries/brewpubs authorized to self/distribute to retail.

(j) Extension of Premise.

- 1. Any licensee seeking an extension of premise shall submit a written application for amendment to the City Clerk.
- 2. All applications for extension of premise shall be submitted for approval by the Common Council.
- 3. If the change is approved, the City Clerk shall amend the license and the license must be posted on the premise.

(k) Extension of Premise to Sidewalk Cafes and Outdoor Service Area.

- 1. Subject to the approval of the Common Council, a licensee may expand their premises to Sidewalk Cafes and Outdoor Services areas permitted pursuant to Section 12.25 of this Code.
- 2. After approval, the area becomes part of the licensed premise and must be noted on the Renewal Alcohol Beverage License Application. The following general requirements shall apply to the extension of premises:
 - a. The outdoor area must be adjacent to and accessible from the licensed premise.
 - b. The license holder is responsible to see that alcoholic beverages are served in compliance with state law.
 - c. No alcohol beverage may be served, sold or consumed during the closed hours of the licensed premise.

(9) RETAIL “CLASS B” INTOXICATION LIQUOR LICENSE.

A “Class B” license for the retail sale of intoxicating liquor also authorized the sale of intoxicating liquor in the original package or container, in multiples not to exceed four liters at any one time, and to be consumed off the premises where sold. The number of “Class B” licenses and Reserve “Class B” intoxicating liquor licenses shall be as established in Chapter

125 of the Wisconsin Statutes.

(10) PROCEDURES FOR GRANTING NON-RESERVE “CLASS B” INTOXICATING LIQUOR LICENSES.

(a) Notice When the number of licenses granted by the City is less than the quota established by this Code or by the Wisconsin statutes, the City Clerk shall notify the Licensing Board of such circumstances and shall publish a Class I notice informing the public of the number of non-reserve licenses available. The Board will then allow at least 30 days to elapse before considering granting any licenses that are available.

(b) Application. Any applicant requesting a non-reserve license shall submit an application including information regarding the factors set forth in section 12.02(8)(c) of the Code.

(c) Determination. At the discretion of the Licensing Board, but not sooner than 30 days after the publication of the notice of available licenses, the applications will be considered, and a recommendation will be made to the Common Council. The Common Council shall then determine which, if any, of the applications shall be granted. The remaining applications will continue to be on file until the end of the license year applied for and shall be considered when other license opportunities become available.

(11) SALE OF BUSINESS. In the event a licensee sells a business requiring a license under this section, the Council, after considering the recommendation of the Licensing Board, may elect to grant a license to the purchaser of the business without following the procedures set forth in 12.02(10).

(12) LICENSE CONDITIONS AND RESTRICTIONS. In addition to the conditions and restrictions imposed by State law on the granting of Class A and Class B fermented malt beverage licenses and intoxicating liquor licenses and Class C wine licenses hereunder, the following conditions and restrictions shall apply:

(a) Consent to Inspection of Premises. It shall be a condition of any license issued hereunder that the licensed premises may be entered and inspected at any reasonable hour by any police officer of the City without any warrant, and the application for a license hereunder shall be deemed a consent to this provision.

(b) Violation by Agents or Employees. A violation of this section by a duly authorized agent or employee of a licensee shall constitute a violation of the licensee.

(c) Sales to Underage Persons Prohibited No alcohol beverage shall be sold, dispensed, given away or furnished to any underage person unless accompanied by a parent, guardian or spouse who has attained the legal drinking age.

(d) Sales by Clubs. Unless otherwise licensed pursuant to this Section no club shall sell alcohol beverages except to members and guests invited by members inside a building owned, leased or rented by a nonprofit association of persons who bond fide members paying dues, the use of which is restricted to said members and their guests.

(e) Effect of Revocation. No other alcohol beverage license may be granted to any person who has had a license revoked within 12 months of the date of revocation. The clerk must notify the Department of Revenue within 10 days after the revocation or suspension of a retail license, and specify the name of the licensee, the address of the premises, and the penalty imposed.

(f) Cessation of Operation. Any license not used for the sale of alcohol beverages for a period of 3 consecutive months may be revoked for that reason or the Council may decline to renew any such license.

(g) Wearing Apparel. All persons involved in the operation of any licensed premises under this section, whether as licensee, member of the immediate family of the licensee, licensed operator, unlicensed operator under the supervision of the licensee or licensed operator, waiter, waitress, entertainer, dance or other employee, shall observe the following applicable minimum standards for such licensed premises:

1. The costume, uniform or attire, wet or dry, of any female shall be of nontransparent material and must completely cover the breasts at all times. The lower portion of such costume, uniform or attire must be of nontransparent material and completely cover the mons pubis genitals and the buttocks at all times.

2. The costume, uniform or attire, wet or dry, of any male shall be of nontransparent material and must completely cover the pubis area, genitals and buttocks at all times.

(h) Nude Dancing in Licensed Establishments

1. Prohibited. It is unlawful for any person to perform or engage in, or for any licensee or manager or agent of the licensee to permit any person, employee, entertainer or patron to perform or engage in any live act, demonstration, dance or exhibition on the premises of a licensed establishment which:

a. Shows his or her genitals, pubic area, vulva, anus, anal clef or cleavage with less than a fully opaque covering; or

b. Shows any portion of the female breast below a point immediately above the top of the areola; or

c. Shows the covered male genitals in a discernibly turgid state.

2. Exemptions. The provisions of this subsection do not apply to the following licensed establishments: theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers of entertainment which intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.

3. Definitions. For purposes of this subsection:

a. Licensed Establishment: Any establishment licensed by the City to sell alcohol beverages pursuant to Chapter 125, Wis. Stats.

b. Licensee: The holder of a retail "Class A", "Class B" Class "B", Class "A", "Class C", temporary Class "B" (picnic) beer or Class B" (picnic) wine license granted by the City pursuant to Chapter 125, Wis. Stats.

4. Penalties. Any person, partnership, or corporation who violates any of the provisions of this subsection shall be subject to a forfeiture as provided in Section 25.04 of this Code. A separate offense and violation shall be deemed committed on each day on which a violation occurs or continues. In addition, violation of this ordinance constitutes sufficient grounds for suspending, revoking or non-renewing an alcohol beverage license under Section 125.12, Wis. Stats.

(13) NO LICENSE REQUIRED. Pursuant to §125.06(6). Wis. Stats. No license shall be required for sales of fermented malt beverages by officers or employees of the city in parks operated by the city. All receipts from such sales shall be deposited in the treasury of the city.

(14) CLOSING HOURS. No premises for which an alcohol beverage license has been issued shall remain open for the sale of alcohol beverages, as follows:

(a) Retail "Class A" Intoxicating Liquor License between 9:00 P.M. and 6:00 A.M.

(b) No premises for which a retail Class "B", "Class B" or "Class C" license or permit is issued may remain open for the sale of alcohol beverages or for any other purpose between the hours of 2:00 A.M. and 6:00 A.M. except:

1. On Saturday and Sunday the required closing hours shall be between 2:30 A.M. and 6:00 A.M

2. On January 1, no closing hours are required.

3. Hotels and restaurants whose principal business is the furnishing of food or lodging to patrons, bowling alleys, curling clubs and golf courses may remain open for the conduct of their regular business, but may not sell alcohol beverages during the hours specified in this paragraph.

(c) Presence on Premises After Closing Hour Restricted.

1. Any person who is not an employee of the licensee who remains on the premises after the designated closing hour is subject to the penalties as provided in this chapter.

2. Any person, while on the premises after closing hours, must be actively engaged in bona fide business activities and may not consume alcoholic beverages.

(15) **CONDITIONS IMPOSED BY COUNCIL.** In order to promote compliance with the law or facilitate enforcement of the law, or in order to otherwise promote the public health, safety or welfare, the Council may impose conditions on any license or permit. Such conditions shall appear on the license or permit. Any violation of such a condition shall be a violation of this chapter subjecting the licensee or permittee to penalties, including a forfeiture and suspension or revocation of the license or permit.

(16) **LIMITATIONS ON OTHER BUSINESS: CLASS "B" PREMISES**

(a) **Restriction.** No Class "B" license or permit may be granted for any premises where any other business is conducted in connection with the premises, except that this restriction does not apply if the premises for which the Class "B" license or permit is issued is connected to premises where other business is conducted by a secondary doorway which serves as a safety exit and is not the primary entrance to the Class "B" premises. No other business may be conducted on premises operating under a Class "B" license or permit.

(b) **Exceptions.** Paragraph (a) does not apply to:

1. A hotel.
2. A restaurant, whether or not it is a part of or located in any mercantile establishment.
3. A combination grocery store and tavern.
4. A combination sporting goods store and tavern.
5. A combination novelty store and tavern.
6. A bowling centers or recreation premises.
7. A club, society, or lodge which has been in existence for 6 months or more prior to the date of filing application for the Class "B" license .
8. A movie theater
9. A painting studio as defined in sec. 125.02(11m)

(17) **REVOCAION AND SUSPENSION OF LICENSES**

(a) **Procedure.** Except as hereinafter provided, the provisions of §125.12(2) and (3), Wis. Stats., shall be applicable to proceedings for revocation or suspension of licenses or

permits granted under this section. Revocation or suspension proceedings may be initiated upon written complaint by the Mayor or Chief of Police or by the Council upon its own motion.

(b) **Repossession of License or Permit.** Whenever any license or permit shall be revoked or suspended pursuant to this subsection, the City Clerk shall notify the licensee or permittee and the Chief of Police of such revocation or suspension, and the Chief of Police or his designee shall take physical possession of the license or permit whenever it may be found and file it in the office of the City Clerk.

(18) **CONSUMPTION OF OUTSIDE ALCOHOL ON LICENSED PREMISES.** All alcohol consumed in a licensed premises shall be obtained by the license holder pursuant to the requirements of the Wisconsin Statutes and Wisconsin Administrative Code.

(19) **WINE, BEER AND INTOXICATING LIQUOR SAMPLING ON CLASS "A" PREMISES.** Sampling is allowed on a Class A premises pursuant to section 125.06 (13), Wis. Stats., for wine sampling, pursuant to section 125.25(1) for fermented malt beverages and pursuant to section 125.51(2)(am) for intoxicating liquor.

12.03 (RESERVED)

12.04 CIGARETTE RETAILER LICENSE. No person shall sell cigarettes in the City without first obtaining a license from the City Clerk. The provisions of §134.65, Wis. Stats., are hereby adopted and made a part of this section by reference.

12.05 AMUSEMENT DEVICE LICENSE.

(1) **DEFINITION.** For the purpose of this section, an amusement device is any machine activated by the insertion of a coin, slug, token or similar item and designed for amusement of the person operating the machine, including, but not limited to, jukeboxes, video and pinball machines; pool, shuffleboard and similar games; and any other device when set up and operated in an established place of business for profit, the operation of which involves a skill feature, and which is not a gambling device. Vending machines are excluded from this definition.

(2) **LICENSE REQUIRED.** No person shall install, lease or set up any amusement device for use on any premises in the City without first obtaining a license from the Clerk.

(3) **DISPLAY OF LICENSE.** All licenses for amusement devices shall at all times be displayed conspicuously on the premises where the amusement device is located. In addition, the sticker issued by the City Clerk bearing the license number and disclaimer for amusement only shall be attached in plain view upon the respective licensed device.

12.06 AMUSEMENT ARCADE LICENSE.

(1) DEFINITIONS.

(a) Mechanical or Electronic Amusement Device. See sec. 12.05(1) of this chapter, but excludes jukeboxes.

(b) Amusement Arcade. Any premises at which 8 or more mechanical or electronic amusement devices are located.

(c) Premises. A building or part of a building in which a mechanical or electronic amusement device or an amusement arcade is located and which is described in the license.

(2) LICENSE REQUIRED. No person shall operate an amusement arcade, as defined in sub. (1)(b) above, within the City without having first obtained a license from the City Clerk upon approval from the Licensing Board and Common Council.

(3) RESTRICTIONS AND REGULATIONS.

(a) Premises to Be Safe and Sanitary. No license shall be granted for any amusement arcade unless the premises complies with all fire and building code requirements of the City and the State, provides adequate room for operation of the devices without blocking access or restricting the movement of patrons and is an otherwise safe and sanitary environment. Generally, usable patron floor space should be 3 times greater than the floor space required by the amusement devices.

(b) Premises to Be Supervised. The premises shall be adequately supervised during all hours of operation.

(c) Orderly Conduct Required. The licensee shall maintain supervision of the premises in such a manner as to insure that no disorderly conduct, gambling or other activity prohibited by this Code or State or Federal law is permitted on such premises or adjacent areas.

(d) Offering of Prizes or Awards Prohibited. No licensee under this section shall offer, advertise, make or give any reward, prize, money or thing of value to any person by reason of the operation of any mechanical or electronic amusement device.

(e) Consent to Inspection. An applicant for a license under this section thereby consents to the entry of police or authorized representatives of the City upon the licensed premises at all reasonable hours for the purposes of inspection.

12.07 PARADE, SPECIAL EVENT OR ENTERTAINMENT PERMITS

(1) DEFINITIONS. When used in this section:

(a) Parade means a parade, march or procession and associated assembly areas when conducted in any portion of a street. Signs, banners, equipment, machinery and other items not carried, operated, occupied or accompanied by persons participating in a parade are not permitted under this section.

(b) Special Event means an organized run, walk, race or similar event; or a farmers market, art fair, street dance or commercial sale when conducted in any portion of a street. Signs, banners, equipment, machinery and other items not carried, operated, occupied or accompanied by persons participating in a special event are not permitted under this section.

(c) Entertainment Event means any exhibition, show, amusement, carnival, circus, concert or musical entertainment that is open to the public.

(d) “Like” Events means events that happen throughout the year from January to December that take place at the same location, are the same type of event and are hosted by the same organizer.

(2) PERMIT REQUIRED. The City Clerk shall issue a parade, special event and/or entertainment permit to the applicant, subject to the provisions of this section.

(a) A complete application for a permit shall be filed with the City Clerk not less than 30 days in advance.

(b) No fee shall be charged for parades, special or entertainment events sponsored by the City. One fee shall be charged for an event lasting from one to four days. Only one fee shall be charged for a parade, special event or entertainment permit needed for the same event on the same day in different locations.

(c) A permit for a tent or air supported structure in excess of 800 square feet shall be obtained from the Fire Chief. It shall be issued after a special event permit has been obtained from the City Clerk’s Office.

(3) EXCEPTIONS. A permit shall not be required under this section for the following:

(a) A funeral procession.

(b) Students going to and from school classes or school activities, providing such conduct is under the supervision of school authorities.

(c) Use of sidewalks by pedestrians provided that such use does not obstruct or unreasonably interfere with access to any public or private property or with any other traffic.

(d) Entertainment events occurring at premises holding a Class “B” Fermented Malt Beverage License or a “Class B” Intoxicating Liquor License issued under sec. 12.02 of this Chapter.

(e) Entertainment events occurring at a museum, performing arts center, library, public or private school, or state license university or technical college.

(4) **FINANCIAL RESPONSIBILITY.** A certificate of liability insurance in the following amount must be provided prior to the issuance of the permit:

(a) \$1,000,000 policy for events such as athletic events and bicycle races.

(b) \$500,000 policy for special activities such as runs, walks, carnivals, circuses, concerts and festivals.

(c) \$300,000 policy for other activities such as parades, trade shows, and art and craft shows.

(d) For entertainment events liability coverage in the amount of \$300,000 for injury or death or any one person, \$1,000,000 for any one accident and \$50,000 for property damage. If the entertainment involves carnival-type rides, proof of the current inspection by the state Department of Commerce shall accompany the application.

(e) The city reserves the right to designate the appropriate level of insurance and, if substantial risk is present, may require additional levels of insurance.

(5) **DENIALS.** An application for a permit may be denied by the City Clerk if:

(a) The event will be held on a work day during hours when and at places where, in addition to the proposed event, the flow of vehicular and pedestrian traffic is usually delayed by its own volume.

(b) It is to be held between the hours of 10:00 P.M. and 6:00 A.M.

(c) Sufficient organizers are not provided to reasonably assure the orderly conduct of the event.

(d) More than one assembly area or more than one dispersal area is proposed.

(e) Permission for use of property for assembly, dispersal or check points has not been obtained.

(f) The proposed route would substantially disrupt business, traffic or neighborhoods.

(g) There is a reasonable probability the event would involve violation of Federal or State highway law, or of other applicable provisions of this Code or City ordinances.

(h) The granting of the permit would conflict with another permit already granted, or for which application is already pending.

(i) The Department of Transportation fails to approve a detour route if required.

(j) The applicant fails to arrange for Emergency Medical Services.

(6) **MODIFICATION OF APPLICATION.** In lieu of denying a permit, the City Clerk may authorize the changing of an application to comply with recommendations.

(7) **REVOCAATION.** A permit already issued may be revoked if deemed that such action is justified by an actual or potential emergency due to weather, fire, riot, other catastrophe or the likelihood of a breach of the peace or by a major change in the conditions forming the basis of the standards of issuance.

(8) **CONDUCT OF PARTICIPANTS.** The Board of Public Works may promulgate such rules as necessary to ensure the safety of participants and spectators. The rules shall include, but are not limited to, the following:

Parade

(a) No alcoholic beverages are permitted on any float or vehicle.

(b) Nothing is to be thrown from any float or vehicle.

(c) Vehicles and floats are to be operated in a safe and responsible manner at all times.

(d) No one is permitted to board or depart any float or vehicle while it is in motion.

Parade or Special Event:

(e) Permanent route markers, including paint or similar substances, are not permitted on either private or public property.

(f) No participant may engage in any sales or solicitation activities unless:

1. The participant has in his possession written permission from the permittee to engage in such activities;

2. The permittee has provided the Clerk's office and Police Department with the name, address, telephone number, birth date and driver's license number of each such participant;

3. The participant provides proof of identity upon request by any police officer; and

4. The participant complies with the requirements of §12.09(7).

(9) INTERFERENCE. No person shall hamper, obstruct or impede or interfere with the assembly or with any person, vehicle or animal participating or used in a parade or special event, nor shall any other organization or group of persons not mentioned in the application for a parade permit participate in the parade.

(10) DRIVING THROUGH PARADES OR SPECIAL EVENTS. No driver of a vehicle shall drive between the vehicles or persons comprising a parade or special event when such vehicles or persons are in motion and are conspicuously designated as a parade or special event unless part of the parade or special event processes or directed to do so by a police officer. However, the parade and special event shall permit passage of authorized emergency vehicles.

(11) PENALTY. Any person violating any provision of this section shall, upon conviction thereof, be fined not more than \$100 for each offense in the discretion of the court, together with the costs of the action, and, in default of payment thereof, shall be imprisoned for a period not to exceed 30 days.

12.08 MASSAGE ESTABLISHMENT LICENSE.

(1) DEFINITIONS. For the purpose of this section, the following terms used shall be defined as indicated:

(a) Massage, massage therapy, and/or bodywork for the purposes of this chapter are used interchangeably and shall mean the skillful application of touch, including, but not limited to, pressure, stroking, kneading compression on or movement of the external surfaces of the body, by a practitioner to produce increased awareness, relaxation, pain relief, injury rehabilitation, or neuromuscular reeducation.

(b) Massage establishment shall include the term “massage and/or bodywork office or establishment,” and means any business or establishment that offers massage therapy in exchange for compensation, whether at a fixed place of business or at a location designated by the patron. Any business or establishment that offers any combination of massage therapy and bath facilities including, but not limited to, showers, baths, wet and dry heat rooms, pools and hot tubs shall be deemed a massage establishment under this chapter.

(c) Nonmassage business means a business where the practice of massage is not the principal activity of the business but is an incidental service and subordinate to the principal activity.

(d) Massage technician means any person who gives or administers a massage for profit, remuneration or compensation.

(e) Registered technician means a person holding a valid registration as a massage therapist or body worker issued by the Wisconsin Department of Regulation and Licensing.

(2) MASSAGE ESTABLISHMENT LICENSE.

(a) License Required. No person shall carry on the business of operating a massage establishment within the City without a valid license issued pursuant to the provisions of this section for each and every such place of business.

(b) Application. Any person desiring to obtain a license to operate a massage establishment shall apply in writing upon a form prescribed by and filed with the City Clerk. An application fee shall accompany the application to defray the costs of the investigation.

(c) Investigation. Applications for licenses under this section shall be referred to the Chief of Police, Zoning Administrator and Building Inspector, of whom shall cause an investigation to be made and report their findings to the Licensing Board.

(d) Grant or Denial of License. Within 30 days of receipt of an application, the Council shall either grant or deny a massage license. The Council shall grant a massage license if it finds:

1. The required fees have been paid.
2. The application conforms in all respects to the provisions of this section.
3. The applicant has not knowingly made a material misstatement in the application for a license.
4. The applicant was fully cooperative in the investigation of this application.
5. The massage establishment as proposed by the applicant would comply with this Code, including, but not limited to, the City's building, zoning, including county and state health regulations.
6. The applicant, if an individual, or any of the stockholders of the corporation, any officers or directors if the applicant is a partnership, have not been convicted of any crime involving dishonesty, fraud, deceit or immorality as outlined in Ch. 944, Wis. Stats., within 5 years prior to the date of the application, subject to §111.321, 111.322 and 111.335, Wis. Stats.
7. The applicant has not had a massage establishment license or other similar license or permit denied or revoked for cause by this city or any other municipality located in or out of this State within 5 years prior to the date of application.
8. The applicant, if an individual, or any of the officers and directors if the applicant is a corporation, or any of the partners, including limited partners, if the applicant is a partnership, is 18 years of age.
9. The applicant is licensed to do business and is in good standing in the state.

(3) **MASSAGE ESTABLISHMENT FACILITIES REQUIREMENTS.** Every massage establishment shall maintain facilities meeting the following requirements:

(a) Shall be equipped with lockers or other storage facilities to provide security and convenience for patrons.

(b) Shall have a minimum of one toilet and one washbasin.

(c) If male and female patrons are to be served simultaneously, such massage rooms, dressing facilities, toilet facilities, steam rooms and sauna rooms as are provided shall be separate for male and female patrons and each such separate facility or room shall be clearly marked as such.

(d) Rooms in which massage is to be practiced or administered shall have at least 50 square feet of clear floor area and shall maintain a light level of no less than 40 foot candles as measured at 3 feet above the floor. Lighting in colors other than white shall be prohibited. Rooms shall be equipped with cabinets for the storage of clean linen and chemicals and approved receptacles for the storage of soiled linen.

(4) **MASSAGE ESTABLISHMENT OPERATIONAL REQUIREMENTS.** Every massage establishment shall comply with the following operating requirements. These requirements shall be prominently and publicly displayed in a conspicuous place upon every premises licensed under the provisions of this section.

(a) Massage establishments shall commence operations no earlier than 8:00 A.M. and the hours of operation shall extend no later than 10:00 P.M. Registered massage technicians shall not practice or administer massage at massage establishments at any time outside of the hours of operation.

(b) Massage establishments and registered massage technicians therein shall prominently and publicly display on the premises their licenses and permits during all hours of operation.

(5) **MASSAGE TECHNICIANS.** Except as otherwise provided in sub. (7):

(a) No person other than a registered technician shall act as a massage technician.

(b) No person shall act as a massage technician in any place other than a massage establishment licensed under this section.

(c) No person owning or operating a massage establishment shall permit anyone other than a registered technician to act as a massage technician therein.

(d) The applicant has not previously had a massage technician permit or other similar permit or license denied or revoked for cause by this City or by any other municipality in this or any other state within 5 years of the date of application.

(e) The applicant is 18 years of age.

(6) LICENSE TERM. Licenses shall be effective for one year commencing July 1 of each year unless sooner suspended, canceled or revoked.

(7) EXEMPTIONS. The provisions of this section shall not apply to the following:

(a) Hospitals, sanitariums, nursing homes, hospices or other health care facilities licensed by the state, and physicians, surgeons, osteopaths, chiropractors, nurses or physical therapists licensed or registered to practice their respective professions under the laws of this state.

(b) Public institutions or facilities operated or administered by the state or a political subdivision of the state, and their officers, employees or agents while acting within the scope of their authority or employment and in conformity with all other applicable state and municipal laws and ordinances.

(c) Barber shops and beauty parlors, and barbers and beauticians licensed by the state, provided that the massage is limited to the head and scalp of patrons.

(d) A person conducting massage as a trainer of any bona fide amateur, semi-professional or professional athlete or athletic team.

(e) Somatic practitioners who use no physical touch of any kind at any time in their practice.

(f) Nonmassage businesses that lease space to a solo practitioner who is a certified massage practitioner for therapeutic massage or that offer therapeutic massage as an incidental service.

(g) Businesses where only chair massage is performed by certified massage practitioners, and it is performed in public view.

(8) PENALTY. Any person violating any provision of this section shall, upon conviction thereof, pay a forfeiture of not less than \$150 nor more than \$500 or, in default of payment of such forfeiture, be imprisoned in the County Jail for not more than 60 days.

12.09 DIRECT SELLER REGULATION AND LICENSING.

(1) DIRECT SELLERS: REGISTRATION REQUIRED. It shall be unlawful for any peddler, solicitor or transient merchant to engage in sales or solicitations within the City without being registered and licensed for that purpose as provided herein.

(2) DEFINITIONS.

(a) Peddler. The word "peddler" as used herein shall include any person, whether a resident of the City of West Bend or not, traveling by foot, automotive vehicle, or any

other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and displaying the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a automotive vehicle, or other vehicle or conveyance, and further provided that one who solicits orders for the future delivery of goods or services shall be deemed a peddler subject to the provisions of this ordinance.

(b) Permanent Merchant. A "permanent merchant" is a merchant who, for at least one year prior to the submission of an application pursuant to this section, has continuously operated an established place of business in this city or has continuously resided in this city and now does business from his residence.

(c) Transient Merchant. A "transient merchant" is any person, whether as owner, agent, consignee or employee, who engages in a temporary business of selling and delivering goods, wares and merchandise within the city and who, in furtherance of such purposes, hires, leases, uses or occupies any building, structure, motor vehicle, trailer, tent, , public room in hotel, lodging house, apartment, shop or other place within the city for the exhibition and sale of such goods , wars and merchandises, either privately or at public auction. The person, firm or corporation so engaged shall not be relieved from complying with the provisions of this section merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of, any local dealer, trader or auctioneer.

(d) Goods. The term "goods" includes personal property of any kind and includes goods provided incidental to services offered or sold.

(e) Solicitor. A "solicitor" is any individual who, for himself or for any other person, organization, society, association or corporation, personally solicits money, property or financial assistance of any kind from persons other than members of such organization, society, association or corporation.

(f) Charitable Organization. A "charitable organization" is any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation for which there is provided proof of tax exempt status pursuant to §501(c)(3) or (4) of the United States Internal Revenue Code.

(g) Applicant. Each individual applying for registration and licensing as a peddler or solicitor is an "applicant".

(h) Registrant. Each individual registered by the City Clerk is a "registrant."

(3) EXEMPTIONS.

(a) The following shall be exempt from the registration and licensing provisions of this section:

1. Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes.
 2. Any person selling goods at wholesale to dealers in such goods.
 3. Any person selling goods to commercial establishments for use in the business of the establishment.
 4. Any farmer or truck gardener selling agricultural products of the farm or garden occupied or cultivated by such person.
 5. Any permanent merchant or employee thereof who takes orders away from the established place of business for goods regularly offered for sale by such merchant within this county and who delivers such goods in his regular course of business.
 6. Any person who has an established place of business where the goods being sold are offered for sale on a regular basis and in which the buyer has initiated contact with and specifically requested a home visit by said person.
 7. Any person who has had, or represents a company which has had, a prior business transaction such as a prior sale or credit arrangement with a prospective customer.
 8. Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law.
- (b) Charitable organizations registered with the Wisconsin Department of Regulation and Licensing pursuant to §440.41, Wis. Stats., shall be exempt from the requirements set forth in subs. (4) (a) and (c) and (6) below if the organization has provided the individual representing it with credentials stating the name of the organization, the name of the representative and the purpose of the solicitation and provided, further, that said individuals complete an application on a form provided by the City Clerk. A license operative for the dates provided to the City Clerk shall be issued without charge upon compliance with the foregoing. The Clerk shall then forward the information and notice of the issuance of a license to the Chief of Police.
- (c) Any religious organization for which there is provided proof of tax exempt status pursuant to §501(c) (3) of the United States Internal Revenue Code shall be exempt from the requirements set forth in subs. (4) (a) and (c) and (6) below. The provisions of par. (b) above shall be applicable to such organizations.
- (d) Upon proof of holding a special Statewide peddler's license for ex-soldiers pursuant to §440.51, Wis. Stats. The Clerk shall then forward the above information to the Chief of Police.
- (e) Activities covered by a parade or special event permit under §12.07 shall be exempt from the registration and licensing requirements of this section but are not exempt from the requirements of subsection (7).

(4) REGISTRATION REQUIREMENTS.

(a) Applicants for licenses must complete and return to the Clerk a registration form furnished by the Clerk.

(b) Applicants shall present the following items to the Clerk for examination:

1. A driver's license or some other proof of identity as may be reasonably required.

(c) No application shall be processed until the application fee has been paid to the Finance Department to cover the cost of processing said application.

(d) The applicant shall consent to the taking of a current photograph of his or her person by the city. The photograph shall be made part of the license.

(e) The applicant shall authorize the city to obtain a report of his or her criminal history.

(5) INVESTIGATION.

(a) Upon receipt of a completed registration form, the Clerk shall immediately refer it to the Chief of Police to make an investigation. The Police Chief or his designee shall complete the investigation and file a report with the Clerk within 72 hours.

(b) The Clerk shall refuse to issue a license to the applicant for any of the following reasons:

1. The application contains any material omission or materially inaccurate statement.

2. The applicant was convicted of a crime, statutory violation or ordinance violation within the last 5 years, the nature of which is directly related to the applicant's eligibility to engage in direct selling or solicitation.

3. If as a result of the investigations required under this section, the applicant's business or character are found to be unsatisfactory, the Chief of Police shall endorse on said application the disapproval and the reasons for the same and return the application to the Clerk who shall notify the applicant that the application was not approved and the license will not be issued.

(c) In the event the Clerk shall refuse to issue the applicant a license, the Clerk shall provide the applicant an opportunity to refute said reasons for denial of the license. After the Clerk has made a final determination, shall either issue the license or provide the applicant with written reasons for refusing to issue the license.

(d) Any person denied application for a license may appeal such action by filing with the Council within 14 days after written notice of the denial a written statement requesting a hearing and setting forth the grounds for the appeal. The Council shall set a time and place for the hearing. Written notice of the time and place of the hearing shall be given to the applicant at least 24 hours prior to the time set for the hearing.

(6) REGISTRATION AND ISSUANCE OF LICENSE.

(a) Upon compliance with the foregoing requirements, the Clerk shall register the applicant as a peddler or solicitor and issue a license to the applicant. The license shall be operative for 90 consecutive days from the date of issuance.

(b) Such license shall contain the signature of the Clerk, the name and address of the peddler or solicitor, a current photograph of the peddler or solicitor, the type of goods or services being sold or the nature of the solicitation, the dates during which the license is operative.

(c) Registrants shall carry their license at all times while engaged in peddling or soliciting in the City and shall exhibit their license at the request of any citizen or police officer.

(7) REGULATION OF DIRECT SELLERS.

(a) Prohibited Practices.

1. A direct seller shall be prohibited from:

a. Calling at any dwelling or other place between the hours of 9:00 P.M. and 9:00 A.M. except by appointment.

b. Calling at any dwelling on a Sunday or legal holiday except by appointment.

c. Calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers", "No Solicitors" or words of similar meaning.

d. Calling at the rear door of any dwelling.

e. Remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.

2. A direct seller shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any goods or services offered for sale, the purpose of this visit, his identity or the identity of the organization he represents.

3. No direct seller shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales or solicitations are made from vehicles, all traffic and

parking regulations shall be observed. No direct seller shall have any exclusive right to any location in the public streets. No direct seller shall sell or solicit in any congested area or where the public will be impeded or inconvenienced. For the purpose of this section, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

4. No direct seller shall make any loud noises or use any sound amplifying device to attract customers or donors. Such unnecessary noise shall meet the exceptions in 7.13 (2) of this Municipal Code.

5. No direct seller shall allow rubbish or litter to accumulate in or around the area in which he is conducting business or making solicitations.

(8) **REGULATION OF FARMERS AND TRUCK GARDENERS.** Farmers and truck gardeners selling their own produce shall:

(a) Remove their sale facility and produce at the end of each day's activity, said day's activity to run from the hours of 6:00 A.M. to 7:30 P.M.

(b) Obtain written authority from the owner of the property to locate the proposed sale facility thereon.

(9) **REPORTS OF VIOLATIONS.** The Police Department shall report to the City Clerk all violations of this chapter and the Clerk shall note any such violation on the record of the registrant convicted. The Clerk shall note any complaint or report of an alleged violation made by a resident of this city or a police officer.

(10) **REVOCAION OF LICENSE.**

(a) The registrant's license may be revoked by the Council after notice and hearing if the registrant made any material omission or materially inaccurate statement in the application for registration, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales or solicitation, violated any provision of this chapter or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling or solicitations.

(b) Written notice of the hearing shall be served personally on the registrant at least 72 hours prior to the time set for the hearing. Such notice shall contain the time and place of the hearing and a statement of the actions or omissions upon which the hearing will be based.

12.095 TRICK-OR-TREATING

(1) **DAY AND TIME ESTABLISHED.** Trick-or-treating within the City of West Bend shall occur annually between the hours of 4:00 p.m. and 6:00 p.m. on the Saturday prior to Halloween or, if Halloween falls on a Saturday or a Sunday, then trick-or-treating shall occur on Halloween.

(2) REGISTRATION NOT REQUIRED. People participating in trick-or-treating activities pursuant to this section are not solicitors and are not subject to the regulations in Sec. 12.09 of this Code.

12.10 RESERVED

12.11 PAWNBROKERS AND SECONDHAND ARTICLE AND JEWELRY DEALERS. The provisions of Wis. Stat. §134.71 are adopted and made a part of this chapter by reference.

12.12 PURCHASE AND SALE OF CERTAIN SCRAP MATERIAL. The provisions of Wis. Stat. § 134.405 are adopted and made a part of this chapter by reference.

(1) LICENSE FOR SCRAP DEALER. No person shall engage in the business of a Scrap Dealer unless the person first obtains a license issued by the governing body authorizing the licensee to operate as a scrap dealer.

12.13 COIN AND PRECIOUS METALS OR STONE DEALERS.

(1) LICENSE REQUIRED. No person shall engage in the business of dealing in coins or precious metals or stones without first having obtained a license from the City Clerk.

(2) RECORDS. Every licensee shall keep a written record of all articles purchased or sold with a description thereof and the name and address of the person involved in the transaction. This record shall be available to the Police Department at all reasonable hours.

(3) PURCHASES FROM MINORS PROHIBITED No such dealer shall purchase any coin or precious metal or stone from a minor without the written consent of the minor's parent or guardian.

12.14 TAXICAB.

(1) DEFINITION. The term "taxicab" as used in this section shall include all vehicles carrying passengers for hire for which public patronage is solicited, excepting vehicles which operate on established routes and are regulated by the Public Service Commission of Wisconsin. The term "mass transit system" means transportation by bus, shared-ride taxicab, rail, or other conveyance, either publicly or privately owned, that provides the public with general or special service on a regular and continuing basis.

- (2) **LICENSE REQUIRED.** No taxicab shall be operated within the City without obtaining a license hereunder, except as provided in Sec. 349.24, Wis. Stats.
- (3) **APPLICATIONS.** Applications for a license hereunder shall be made to the Clerk and shall be referred to the Council.
- (4) **INSPECTION OF VEHICLES.** The brakes, horn, lights, steering system, exhaust system and tires of every taxicab shall be examined and tested as to sufficiency at least once every 90 days by a reputable garage keeper doing business in the City who shall furnish a certificate as to the examination of the vehicle and that said components are in good working order, which certificate shall be filed in the office of the City Clerk.
- (5) **INSURANCE.** Before any license is issued, a certificate of insurance coverage showing that each vehicle to be licensed is covered by public liability insurance by an insurance company licensed to do business in Wisconsin in the amount of \$100,000 for injury or death to any one person in an accident involving such vehicle, \$300,000 for any one accident and \$25,000 property damage insurance. Any insurance policy hereunder shall contain a provision that the same shall not be cancelled before expiration of its term except upon 20 days written notice to the City. Cancellation or termination of such insurance shall automatically terminate all licenses issued hereunder unless another certificate of insurance shall be substituted.
- (6) **LICENSE ISSUANCE.** Upon the granting of a license hereunder and upon compliance with the provisions of this section by the applicant, the City Clerk shall issue to the licensee a license which shall be displayed prominently in the taxicab for which it has been issued.
- (7) **LICENSES NOT TRANSFERABLE.** No license issued hereunder shall be transferable from one licensee to another. Licenses may be transferred from one vehicle to another upon submitting to the Clerk proof of insurance and a certificate of inspection.
- (8) **NAME ON CABS.** The serial number of a taxicab license shall be printed or painted on each side and on the rear of the taxicab in figures at least 2 inches high and 1/4 inch wide, such numbers to be painted on the side and rear of each taxicab at a point not lower than 1/2 the height of the taxicab. The name of the owner or operator of the taxicab shall be printed on both sides and rear of each taxicab in like letters.
- (9) **FARES TO BE POSTED IN TAXICAB.** Each taxicab shall have a card printed in plain legible figures with the fares charged and posted in a conspicuous place inside the taxicab in plain sight of passengers.
- (10) **SUSPENSION AND REVOCATION.** Licenses granted under this section may be suspended or revoked at any time by the Council for any violation of the provisions of this section and also if the vehicle for which the license was issued is not of good appearance, clean and safe, or for conduct by the licensee or any person driving a vehicle under such license which is prejudicial to the public safety, welfare or good order of the City. A license suspended or revoked because the vehicle is not of good appearance, clean and safe shall not be reissued until the vehicle shall be put in good condition for use by the public to the satisfaction of the Council. When a taxicab license is revoked or suspended, as herein provided, the Clerk shall immediately

notify the owner to cease operation of the vehicle as a taxicab for which the license has been revoked.

12.15 TAXICAB DRIVER'S LICENSE.

(1) **LICENSE REQUIRED.** No person shall operate a taxicab unless he/she possesses a valid taxicab driver's license, except as provided in Sec. 349.24, Wis. Stats.

(2) **APPLICATION.** Application for a taxicab driver's license shall be made on a form furnished by the City Clerk.

(3) **GRANT OF LICENSE.**

(a) The Clerk shall grant and issue a license under this section upon determining that the applicant has complied with the requirements of this section.

(b) If the Clerk denies a license, the applicant may appeal the denial by filing a written request for a hearing with the Clerk within 10 days of the denial. The application shall be brought before the Common Council for consideration within 30 days of the appeal. Thereafter, the Council shall grant or deny the license. The Clerk shall issue the license forthwith if the Council grants the license.

(c) Failure of the Clerk to grant or deny a license within 20 days of application shall be considered a denial. The 10 day limitation period for appeal shall not commence until a written denial is issued.

(4) **RESTRICTIONS.** No license shall be granted to any person:

(a) Who is under 18 years of age;

(b) Who does not possess a valid Wisconsin motor vehicle operator's license.

(c) Who has been convicted of any felony, misdemeanor or other offense if the circumstances of such offense substantially relate to the circumstances of the licensed activity; or who is the subject of a pending charge of any felony, misdemeanor or other offense if the circumstances of such offense substantially relate to the circumstances of the licensed activity; or

(d) Who has been convicted of operating a motor vehicle while under the influence of any intoxicant, drug, controlled substance, or any combination of these, or with a prohibited blood alcohol content, unless 2 years have elapsed from the date of conviction or discharge from correctional custody or supervision institution, whichever is later.

(5) **SUSPENSION AND REVOCATION OF TAXICAB DRIVER'S LICENSE.** The Council, upon notice and hearing, may suspend or revoke a taxicab driver's license:

(a) If the licensee since the granting of the license:

1. Has had his or her Wisconsin motor vehicle operator's license suspended, revoked or cancelled;
 2. Has been convicted of any felony, misdemeanor or other offense if the circumstances of such offense substantially relate to the circumstances of the licensed activity;
 3. Has been convicted of operating a motor vehicle while under the influence, as set forth in par. (4)(d), above; or
 4. Has been convicted of any 3 or more of the offenses set forth in Ch. 346, Wis. Stats., occurring during any continuous 12 month period.
- (b) If the Council, for the preservation of the public health, safety, welfare, good order or morals, finds the licensee is unfit to drive a taxicab.

12.16 MOBILE HOMES AND MOBILE HOME PARKS.

- (1) **STATE STATUTES ADOPTED BY REFERENCE.** The provisions of §66.0435, Wis. Stats., and the definitions therein are hereby adopted by reference.
- (2) **PARKING OUTSIDE LICENSED MOBILE HOME PARKS RESTRICTED.** No occupied mobile home shall be permitted to be located in the City unless the same is in a licensed mobile home park, except those mobile homes now occupied outside of a mobile home park which right to occupy ceases when the present occupant vacates the mobile home by death, sale or otherwise.
- (3) **PARK LICENSE REQUIRED.** No person shall establish or operate upon property owned or controlled by him within the City a mobile home park without having first secured a license from the City Clerk. Such parks shall comply with Wis. Adm. Code Comm. 95, which is hereby adopted by reference.
- (4) **ADDITIONS TO PARKS.** Licensees of mobile home parks shall furnish information to the Clerk and Assessor on such homes added to their park within 5 days after their arrival on forms furnished by the Clerk.
- (5) **PARKING PERMIT FEES.** There is imposed on each nonexempt mobile home located in the City a parking permit fee, such amount to be determined in accordance with §66.0435, Wis. Stats. The fees shall be paid to the Finance Department on or before the 10th day of the month following the month for which they are due. It shall be the full and complete responsibility of the licensee of a mobile home park to collect such fees from each nonexempt mobile home therein and to remit such fees to the Finance Department. Failure to do so is to be treated like a default in payment of personal property taxes and subject to all procedures and penalties applicable under Chapters 70 and 74, Wis. Stats.

(6) PAYMENT OF FEES FOR MOBILE HOMES OUTSIDE PARKS The owner of the land on which a mobile home is located outside of a mobile home park shall collect the fee from the owner of the mobile home and, on or before January 10 and on or before July 10, shall transmit to the Finance Department all fees owed for the 6 months ending on the last day of the month preceding the month when the transmission is required.

12.17 REGULATION AND LICENSING OF DOGS, CATS AND POT-BELLIED PIGS.

(1) LICENSE REQUIRED. It shall be unlawful for any person in the City to own, harbor or keep any cat over 5 months of age without complying with the provisions of this section, or to own, harbor or keep any dog more than 5 months of age without complying with the provisions of this chapter and §174.05 through 174.10, Wis. Stats., relating to the listing, licensing and tagging of same, or to own, harbor or keep any pot-bellied pig subspecies of “sus scrofa domesticus” referred to as a teacup pig, micro pig, minis or miniature pigs. In addition, prior to licensing a certification from a reputable breeder that the Pot-Bellied Pig will not exceed 35 pounds at any point during its lifespan shall be provided, it must be spayed or neutered prior to being licensed and must comply with the provisions of this section.

(2) LICENSE FEES The licensing year shall start on April 1st. The license fee shall be paid the Finance Department when the application is submitted.

(3) LATE FEES. The Finance Department shall assess and collect a late fee of \$5 if the owner failed to obtain a license prior to April 1 of each year or within 30 days of acquiring ownership of a licensable cat, dog or pig, or if the owner failed to obtain a license before the cat or dog reached 5 months of age.

(4) KENNEL LICENSE OPTION. The owners of kennels may opt to pay a kennel license fee for a kennel of 12 dogs or less plus a fee for each dog in excess of 12 in lieu of the fees provided in sub. (2) above and the Finance Department shall issue tags for each dog owned by the kennel owners.

(5) RABIES VACCINATION REQUIRED. It shall be unlawful for any person to keep a dog in the City which is over 5 months of age and has not received a rabies vaccination as required by §95.21 (2), Wis. Stats., or to keep a cat in the City which is over 5 months of age and has not received a rabies vaccination. No dog or cat license shall be issued until a certificate of rabies vaccination issued by a veterinarian has been presented. A rabies vaccination tag shall be attached to the collar of all licensed dogs at all times, except as provided in §95.21(2)(f), Wis. Stats.

(6) DEFINITIONS. In this section, unless the context requires otherwise, the following terms shall be defined as indicated:

- (a) Owner. See sec. 9.08(2)(a).
- (b) At Large. See sec. 9.08(2)(b).

(c) Running at Large. A dog, cat or pig is considered to be running at large if it is off the premises of its owner and not under the control of the owner or some other person.

(d) Untagged. A dog, cat or pig is considered to be untagged if a valid license tag is not attached to a collar which is kept on the dog, cat or pig whenever the dog, cat or pig is outdoors unless the dog, cat or pig is securely confined in a fenced area.

(e) Kennel. A kennel is any establishment wherein dogs are kept for the purpose of breeding, sale, training or boarding.

(7) RESTRICTIONS ON KEEPING OF DOGS. It shall be unlawful for any person within the City to own, harbor or keep any dog which:

(a) Habitually pursues vehicles upon any street, alley or highway.

(b) Assaults or attacks any person without provocation.

(c) Is at large within the limits of the City.

(d) Habitually barks or howls to the annoyance of any person or person. This paragraph shall not apply to hospitals conducted for the treatment of small animals.

(e) Kills, wounds or worries any domestic animal.

(8) DOGS, CATS OR POT-BELLIED PIGS RUNNING AT LARGE OR UNTAGGED.

(a) Subject to Impoundment. Police officers shall attempt to capture and restrain any dog, cat or pot-bellied pig running at large and any untagged dog or cat or pot-bellied pig. Any such dog, cat or pot-bellied pig shall be transported to the Washington County Humane Society.

(b) Penalties. If the owner of a dog, cat or pot-bellied pig, negligently or otherwise, permits the dog, cat or pot-bellied pig to run at large or be untagged, the owner shall be subject to a penalty as provided in sec. 25.04 of this Code.

(9) DUTY TO REPORT DOG, CAT OR POT-BELLIED PIG BITE. Every person, including the owner or person harboring or keeping a dog, cat or pot-bellied pig, who knows that a dog, cat or pot-bellied pig has bitten any person shall immediately report such fact to the Police Department.

(10) QUARANTINE OR SACRIFICE OF DOGS AND CATS SUSPECTED OF BITING A PERSON OR BEING INFECTED WITH RABIES.

(a) Quarantine or Sacrifice of Dog, Cat or Pot-Bellied Pig. A police officer may order a dog, cat or pot-bellied pig quarantined if he/she has reason to believe that the animal bit a person, is infected with rabies or has been in contact with a rabid animal. If a quarantine

cannot be imposed because the dog, cat or pig cannot be captured, the officer may kill the animal. The officer may kill a dog, cat or pig only as a last resort or if the owner agrees. The officer shall attempt to kill the animal in a humane manner and in a manner which avoids damage to the animal's head.

(b) Quarantine Order. If a quarantine is ordered, the owner shall be subject to the provisions of §95.21(5), (6) and (8), Wis. Stats.

(11) NUMBER OF DOGS, CATS AND POTBELLIED PIGS PER HOUSEHOLD LIMITED. No person, except a kennel licensee, shall own, harbor or keep more than 2 dogs, 2 cats and 2 potbellied pigs that are more than 5 months of age except in a place or places where animals are impounded or restrained, as specified in this section. If a total of more than 2 dogs, 2 cats and 2 potbellied pigs are owned, harbored or kept in or by any one household, the head of the household shall be deemed the person so owning, harboring or keeping such animals, notwithstanding that the dog, cat or pig license or licenses may be issued to other members of the household as owners of such animals.

(12) SETTING DOGS, CATS AND POT-BELLIED PIGS AT LARGE PROHIBITED. No person shall open any door or gate of any private premises for the purpose of releasing a dog, cat or pig from an enclosure without the consent of the owner of such dog, cat or pot-bellied pig.

(13) PENALTIES. In addition to other penalties provided in this section, the following penalties are imposed:

(a) Failure to Obtain Rabies Vaccination. A dog or cat owner who fails to have a dog or cat vaccinated against rabies, as provided in this section, shall upon conviction forfeit not less than \$50 nor more than \$100.

(b) Refusal to Comply With Quarantine Order. An owner of a dog, cat or pot-bellied pig who refuses to comply with an order issued under this section to deliver the animal to a police officer, or veterinarian, or who does not comply with the conditions of an order that the animal be quarantined, shall, upon convictions, forfeit not less than \$100 nor more than \$500.

12.175 REGULATION AND LICENSING OF CHICKENS

(1) LICENSE REQUIRED. It shall be unlawful for any person in the City to own, harbor or keep chickens without complying with the provisions of this Section and Section 9.075.

(2) NUMBER OF CHICKENS PER SITE. All coops and runs under this section shall be limited to the keeping of up to a total of four chickens per property.

(3) LATE FEES. The Finance Department shall assess and collect a late fee of \$5 from every owner of a chicken if the owner failed to obtain a license prior to April 1 of each year or prior to acquiring ownership of a chicken.

12.18 REGULATION AND LICENSING OF BICYCLES. See sec. 7.16 of this Code.

12.19 ROOM TAX

(1) DEFINITIONS. In this section the terms used shall be defined as follows:

(a) As provided in §66.0615(1), Wis. Stats. "transient," "hotel" and "motel" shall have meanings set forth in §77.52(2) (a) 1., Wis. Stats.

(b) "Gross receipts" has the meaning set forth in §77.51(4)(a), (b) and (c), Wis. Stats.

(c) "Licensed lodging marketplace" are facilitated retail sales by listing or advertising sales by a seller of taxable property or services and who, directly or indirectly, collect payment from the purchaser and transmits that payment to the seller.

(2) ROOM TAX IMPOSED Pursuant to §66.0615, Wis. Stats., a tax is hereby imposed on the privilege and service of furnishing, at retail, rooms or lodging to transients by hotel keepers, motel operators and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for the use of the accommodations. Such tax shall be at the rate of 8% of the gross receipts from such retail furnishing of rooms or lodgings, which tax is an increase of 3% from the previous tax rate of 5%. Such tax shall not be subject to the selective sales tax imposed by §77.52(2) (a) 1. Wis. Stats. In order to defray the cost of collection, 1% of the proceeds of the gross tax collected under this section may be retained by the hotel, motel or other person filing a return and the balance shall be paid to the City as hereinafter provided.

(3) LICENSE REQUIRED. No person subject to the tax imposed in sub. (2) above shall furnish rooms or lodging to transients at retail without a license issued by the City Clerk.

(4) APPLICATION; FEE The applicant for a license shall file an application with the City Clerk or Washington County Health Department on a form furnished by the Clerk.

(5) PAYMENT OF TAX. The tax imposed by this section for each calendar quarter is due and payable to the Finance Administrator on the last day of the month next succeeding the calendar quarter for which imposed. A quarterly return shall be filed with the Finance Department on or before the same date on which such tax is due and payable. Such return shall show the gross receipts of the preceding calendar quarter from such retail furnishing of rooms or lodging, the amount of taxes imposed for such period, and such other information as the Finance Administrator deems necessary. Every person required to file such quarterly return shall file an annual calendar year or fiscal year return. Such annual return shall be filed within 90 days of the close of each such calendar or fiscal year. The annual return shall summarize the quarterly returns, reconcile and adjust for errors in the quarterly returns, and shall contain certain additional information as the Finance Administrator may require. Such annual returns shall be made on forms furnished by the Finance Department. All such returns shall be signed by the

licensee or his duly authorized agent. The Finance Administrator may, for good cause, extend the time for filing any return, but in no event longer than one month from the filing date.

(6) ENFORCEMENT OF COLLECTION OF TAX.

(a) Audit. Whenever the Finance Administrator has probable cause to believe that the correct amount of room tax has not been assessed or the tax return is not correct, the Finance Administrator may inspect and audit the financial records of the licensee relating thereto. In the event the licensee refuses to permit the Finance Administrator to make such inspection and audit, the licensee shall pay a forfeiture in the amount of 5% of the tax as determined in sub. (5) above or par. (b) below.

(b) Failure to File Return. In the event a licensee neglects, refuses or otherwise fails to make a return for the amount, in the manner and form, and within the time presented above:

1. The Finance Administrator shall determine the amount of the tax according to best judgment.

2. The licensee shall pay the amount determined under subparagraph 1 plus interest at the rate of 1% per month on the unpaid balance.

3. No refund or modification of the payment determined by the Finance Administrator may be granted unless and until the licensee pays the amount determined by the Finance Administrator plus all interest due, files a correct return, and permits the Finance Administrator to inspect and audit the licensee's financial records. In the event the inspection of the financial records shows the return to be correct, the Finance Administrator may refund the amount by which the amount determined exceeded the amount owing as shown by the return but shall not refund any interest.

(c) Penalty. Any licensee who fails to pay any quarterly tax imposed under this section when due shall pay a forfeiture of 25% of the amount of the tax or \$2,100, whichever is less. Any licensee who fails to file an annual return when due shall be subject to a forfeiture of \$10 per day until the return is filed.

(7) CONFIDENTIALITY OF INFORMATION. No person shall reveal any information relating to any room tax return.

(a) Exception. The above prohibition shall not apply to persons using such information in the discharge of their duties imposed by law, or of the duties of their office or by order of a court. Statistics classified so as to not disclose the identity of a particular return may be published.

(b) Penalty. Any person convicted of violating this subsection shall pay a forfeiture of not less than \$100 nor more than \$500.

(8) DISTRIBUTION OF TAX. Pursuant to Section 66.0615(1m)(d), Wis. Stats., the City shall spend at least 70 percent of the amount of room tax collected on tourism promotion

and tourism development. The City shall determine the allocation of room tax collections to be utilized by City for general governmental expenses and all remaining funds shall be forwarded to Tourism Commission for distribution.

12.20 RESERVED

12.21 BLOCK EVENT, PERMIT REQUIRED

(1) DEFINITION. A block event is a gathering of abutting neighbors and their relatives and friends or special church sponsored events held within the City street right of way or other public thoroughfare which has been temporarily closed for the occasion.

(2) PROHIBITION. No person shall encroach upon, occupy, obstruct or encumber any public street, alley or highway, or part thereof, unless authorized to do so in accordance with this Code.

(3) STREET CLOSING FOR NEIGHBORHOOD BLOCK EVENTS. Upon application by a resident of the affected portion of the street, the City Clerk may grant a permit to close a definite and limited portion of a street in the City for a neighborhood block event. No such permit shall be granted when:

(a) The street sought to be closed, or portion thereof, is part of the Federal, State or county trunk highway system, or is a major through street.

(b) Such closure will be likely to, or will tend to cause unreasonable traffic congestion, result in a disturbance of the peace, or endanger the public health, welfare and safety.

(c) Access to a business place would be hampered.

(4) APPLICATION FOR BLOCK EVENT PERMIT.

(a) Before application is made to the Clerk's Office a notice shall be distributed to abutting neighbors affected by the street closure for the block event. A copy of said notice shall be included with the application.

(b) Application for a block event permit shall be made not less than 15 working days in advance of the event on a form to be provided by the City Clerk.

(c) In the event that any person who resides or does business in the blocked-off portion of the street objects to such closing, the application for the permit may be denied.

(5) RESPONSIBILITIES OF PERMITTEE.

(a) Applicant for block event permit is responsible for obtaining, erecting, removal and return of any required signs, barricades, equipment or supplies required for said block event.

(b) Barricades, signs, equipment and street sweeping services may be obtained from any private contractor, or City Public Works with a 10 day prior notice. All costs are to be borne by the applicant.

1. Public Works sweeper will be changed out at the current rate plus the actual cost of labor.

2. Persons borrowing equipment from the Department of Public Works are responsible for damaged or missing items.

(c) For all block events or street closings, flashing barricades will be required after dark.

(d) Structures or objects (bandstands, etc.) erected or provided for use in conjunction with the event for which the license is granted will be removed by 10:00 p.m. the day of the event.

(e) The immediate area of the block event, including adjacent streets and sidewalks, must be cleared of all trash and other refuse by 10:00 p.m. of the block event.

(f) Acceptance of a permit shall make the applicant primarily liable for damages to persons or property caused by reason of the closing. The City shall not be liable for any damage caused by the street closing.

(g) Permittees shall be responsible for procurement, placement and maintenance and removal of barricades used to close the streets under this section.

(h) All signs, barricades, supplies and debris must be removed by 10:00 p.m. the day of the event. Streets shall be returned to the same conditions as prior to the event, to include sweeping, if necessary.

(i) Music or noise levels must be kept at a reasonable level so as not to disturb others.

(6) HOURS. Block events shall start no earlier than 10:00 A.M. and end no later than 10:00 P.M.

(7) PENALTY. Any violation of or noncompliance with any of the provisions of this section shall subject the violator to a forfeiture of not less than \$10 nor more than \$100, together with the costs of prosecution and, in default of payment thereof, to imprisonment in the County Jail until such forfeiture and costs are paid, but not to exceed 15 days.

12.22 BANNER OVER MAIN STREET. A person may hang a sign, flag or banner over Main Street between Washington Street and Walnut Street if the person obtains a permit for that purpose from the City Clerk prior to hanging the sign, flag or banner.

(1) **APPLICATION.** Application for a permit under this section shall be made in writing and in such form as required by the City Clerk. The application shall include detailed plans for the sign, flag or banner and method of hanging it.

(2) **FINANCIAL RESPONSIBILITY.**

(a) **Indemnification.** In applying for the permit, the applicant must agree to indemnify the City and hold the City harmless from any liability which may result from or be related to hanging, maintaining or removing the sign, flag or banner.

(b) **Insurance** Prior to issuance of the permit, the applicant must provide proof of liability insurance satisfactory to the City Clerk naming the City as an additional insured and having minimum limits of liability of \$500,000.

(c) **Deposit.** Prior to issuance of the permit, the applicant shall deposit \$50 per banner in cash with the Clerk to guarantee performance of its obligations under this section. The deposit shall be refunded upon completion of the permit, if the applicant has fulfilled all of its obligations under this section and the permit.

(3) **REVIEW.** The application shall be reviewed by the Chief of Police, the Director of Public Works and the City Engineer prior to issuance to determine whether the hanging of the sign, flag or banner will be consistent with public safety. The Director of Public Works and the City Engineer shall establish minimum standards for materials, height above the street, anchors and such other matters as they shall determine necessary to protect the public safety.

(4) **GRANT OF PERMIT.** In the event the applicant complies with all of the provisions of subs. (1) through (4), the City Clerk may grant the permit if it is consistent with the public health, safety and welfare.

(5) **TERM.** Permits shall not be valid for more than 40 days and may be granted for a shorter time. Permits may be renewed not more than one time.

(6) **CONDITIONS.** Any permit granted under this section is subject to the following conditions.

(a) The sign, flag or banner shall pertain to a special event open to the public.

(b) The sign, flag or banner must be hung and maintained safely and in strict compliance with the plans in the application and the standards established by the City Engineer and the Director of Public Works.

(c) The sign, flag or banner may not be hung from or attached to any City structures, facilities or other property. The applicant is responsible for obtaining permission from the owner of the property to which the sign, flag or banner is attached.

(d) The applicant is responsible for removing the sign, flag or banner prior to the expiration of the permit.

(e) The City may, upon 10 days' notice, require the applicant to remove the sign prior to the expiration of the permit.

(f) If, at any time, the Police Chief, the City Engineer or the Director of Public Works determines, in his sole discretion, that the sign, flag or banner is no longer in compliance with the plans or standards or otherwise creates a danger to the public safety, the City may immediately remove the sign, flag or banner without any notice to the applicant or others.

(g) In the event the applicant fails to remove the sign, flag or banner, as required under pars. (c) and (d) above, the City may remove it.

(h) In the event the City removes the sign, flag or banner, pursuant to pars. (e) or (f) above, the deposit made under sub. (3)(c) above shall be forfeited to the City.

(7) **UNAUTHORIZED BANNERS.** Any person hanging a sign, flag or banner, or allowing a sign, flag or banner to be hung from his property, in violation of this section, shall be responsible for the cost of removing the sign, flag or banner as well as a penalty as provided in sub. (1) below. (See sec. 7.02(3) and (4) of this Code).

(8) **PENALTY.** In the event of any violation of this section, the applicant shall be subject to a penalty, as provided in sec. 25.04 of this Code in addition to, and not in lieu of, any other financial obligation under this section.

12.23 TREATED GROUNDWATER DISCHARGE PERMIT

(1) **PERMIT REQUIRED.** No person shall discharge treated groundwater to a storm sewer or cause or allow such discharge unless a permit has been issued and is in force for the discharge. Discharge without a permit or while a permit is suspended is a nuisance and may be abated as other nuisances.

(2) **APPLICATION.** Persons desiring permits shall make application to the City Engineer on a form provided by the City Engineer. The application shall be signed by the owner of the property from which the groundwater is being extracted and by the person who is responsible for the treatment system if different than the owner of the property. The application shall disclose the quantity of water to be discharged, the discharge point, and other information which the City Engineer may require. The application shall be accompanied by the application fee, the report or reports submitted to the DNR for approval of the treatment system, and such other items as the may deem appropriate. A WPDES permit issued by the DNR isn't required at

the time the application is submitted to the City Engineer, but will be required prior to issuance of the treated groundwater discharge permit by the city.

(3) TERM.

(a) Original permits and renewal permits issued under paragraph (c) shall expire on December 31 of the third calendar year following the year of issuance, unless a shorter term is driven by conditions of the WPDES permit for this discharge, in which case, the shorter term shall apply.

(b) Except for permits issued under paragraph (c), renewal permits shall be for a term of four years from January 1 of the first year to December 31 of the fourth year, unless a shorter term is driven by conditions of the WPDES permit for this discharge, in which case, the shorter term shall apply.

(c) Upon a change of ownership of the land from which water is being extracted under a permit, the new owner shall apply for a permit coverage as described in 12.23(2) above.

1. If there is a change to any aspect of the discharge information as determined by the City Engineer (for example change in quantity or rate of discharge; change of discharge point; etc....), the owner shall apply for a new permit.

2. If there is no change to any aspect of the discharge information, the new owner may apply for a renewal permit.

(4) ISSUANCE. The City Engineer shall issue a permit if the storm sewer to which the discharge is to be made has sufficient capacity and the discharge is not otherwise contrary to the public interest, and the DNR has issued a WPDES permit to authorize the discharge. The City Engineer may impose conditions or restrictions on the permit to protect the public health, safety, and welfare in addition to the conditions and restrictions imposed by this section.

(5) CONDITIONS AND RESTRICTIONS.

(a) WPDES Permit. No discharge of treated groundwater shall be made to a storm sewer unless there is a WPDES permit permitting such discharge in effect at the time.

(b) All discharges shall be consistent with the representations made in the application and conditions imposed by the permit.

(c) The permittee shall immediately notify the City Engineer of any change in the amount or nature of the discharge.

(d) The permittee shall immediately notify the City Engineer of any violation of its permit or its WPDES permit.

(e) The permittee shall defend, indemnify and hold the City harmless from any harm, injury, damage, penalty, forfeiture, claim or suit which may result from the discharge.

(6) COMPLIANCE WITH OTHER SECTIONS. Obtaining a permit under this section does not eliminate the need for obtaining other permits or complying with other provisions of this Code.

(7) SUMMARY SUSPENSION. Notwithstanding sec. 12.01(11), the City Engineer may suspend a permit without a hearing when he determines that such suspension is necessary to stop or prevent an actual or threatened discharge which presents an imminent and substantial risk to the health, safety, or welfare of persons or the environment. A permittee may request a hearing, as provided in sec. 12.01(11). Upon such a request, the Common Council shall promptly hold a hearing. Following the hearing, the Common Council may terminate the suspension, determine the length of the suspension, or revoke the permit.

(8) DEFINITIONS. As used in this section, the following terms shall have the meanings indicated unless the context requires otherwise:

(a) Discharge means a discharge of treated groundwater directly or indirectly to a storm sewer.

(b) Groundwater means subsurface water in soils and geologic formations.

(c) Original permit means a permit other than a renewal permit.

(d) Permit means a permit for the discharge of treated groundwater issued under this section.

(e) Permittee means a person holding a permit.

(f) Person means any individual, firm, company, municipal or private corporation, association, society, institution, enterprise, governmental agency or other entity.

(g) Renewal permit means a permit issued before the time a prior permit for the same discharge expires, the term of which commences at or before the time the prior permit expires.

(h) Treated groundwater means groundwater which has been processed or is purported to have been processed by a treatment system.

(i) Treatment system means a device or system for removing or remediating contaminants from water.

(j) WPDES Permit means a Wisconsin Pollution Discharge Elimination System permit issued by the Wisconsin Department of Natural Resources.

12.24 TEMPORARY PRIVILEGES IN PUBLIC RIGHT OF WAY.

Pursuant to sec. 66.0425 Stats. the Common Council, by this section, grants privileges in public rights of way.

(1) SIDEWALK DISPLAY PERMIT

(a) Applications

1. Applications for sidewalk displays under this section shall be made to the Clerk on a form provided by the Clerk.

(b) Term

1. A sidewalk display granted under this section shall run from July 1 to June 30.

2. A sidewalk display granted under this section may be renewed for a two year period.

(c) Authorization The Clerk is authorized to grant a temporary privilege in public rights of way consistent with this section and section 66.0425, Stats.

(d) Conditions. Privileges granted under this section are subject to the following conditions:

1. The application must be made by a property owner or occupant for the portion of the public right-of-way immediately in front of and contiguous to the property owned and/or occupied by the applicant.

2. The display in the right-of-way shall leave a minimum unobstructed clear width of five feet (5') on one level at all points of the sidewalk or Riverwalk.

3. No display shall be permanently attached to the land or any structure. The display must be removed whenever the applicant's business is closed or the obstruction is otherwise unattended by the applicant.

4. The privilege may be suspended during parades or special events or when the police chief or fire chief deem it appropriate in the interests of public safety.

5. The privilege is subject to the conditions in sec. 66.0425, Stats. including specifically the applicant's liability for damages and responsibility for removal.

(e) This section is not intended to limit the general applicability of sec. 66.0425, Stats. and does not prohibit the granting of other special privileges under sec. 66.0425.

(2) PROJECTING SIGNS

(a) Applications.

1. Applications for a projecting sign under this section shall be made to the Clerk on a form provided by the Clerk. Applications for a projecting sign permit shall be reviewed by the Zoning Administrator for compliance with sec. 17.48 before the permit is granted.

(b) Term.

1. Permits granted for projecting signs shall remain in effect until the sign is removed by the permit holder or until such time as the City requests removal of the sign pursuant to sec. 66.0425, Stats.

(c) Authorization.

1. The Clerk is authorized to grant a temporary privilege in public right of way consistent with this section and section 66.0425, Stats.

(d) Conditions.

1. The application must be made by a property owner or occupant for the portion of the public right-of-way immediately in front of and contiguous to the property owned and/or occupied by the applicant.

(3) **SIDEWALK CAFES.** Businesses may expand their premise to create an outdoor seating area on part of the public right of way that immediately adjoins the premises for that purpose of consuming food or beverages prepared at the full service restaurant, coffee shop or tavern adjacent thereto, subject to the following conditions. The Sidewalk Café permit shall be effective annually and expire June 30th of each year.

(a) Application.

1. Applications for a sidewalk café under this section shall be made to the Clerk on a form provided by the Clerk. Applications for sidewalk cafes shall be reviewed by the Police Department, Fire Department, Department of Public Works and Engineer Department for compliance. These departments shall establish minimum standards as they determine necessary to protect the public safety. The conditions of this section shall also be met.

2. A copy of a site plan which depicts the dimensions of the proposed sidewalk café, size and number of tables, chairs, planters, umbrellas, trees, location of doorways, benches, bike racks, trash receptacles, or other sidewalk obstructions either existing or proposed within the area between the building and the curb.

(b) Conditions: A sidewalk café license does not grant the licensee exclusive use of the public right of way, and is subject to the following terms and conditions.

1. All public improvements, including but not limited to, trees, light poles, traffic signals, manholes, or public initiated maintenance, shall take precedence.

2. The permit holder shall maintain a minimum of a five foot wide unencumbered, open and accessible portion of the sidewalk for pedestrian traffic safety at all times. No alcohol or food may be consumed within the designated sidewalk area.

3. Licenses issued may not be valid on any day that a permitted special event would close the street and/or sidewalk to normal use of traffic.

4. No obstruction shall be permanently attached to the land or any structure.

5. A Sidewalk Café permit can only be utilized between April 1 and October 1. The operator of the café shall remove moveable sidewalk café improvements while the business is closed, unless permission is granted to do otherwise by the city.

(c) Restrictions.

1. A license holder must obtain an extension of premise onto a Sidewalk Café in order for alcohol beverages to be served, sold, or consumed. Permission to include a Sidewalk Cafe as part of a licensed premise is subject to approval by the Common Council.

2. The public sidewalk utilized for this purpose shall be abutting the licensed premise and shall not encroach on the sidewalk abutting a neighboring property.

3. The entire outdoor area utilized for the sidewalk café shall be visible from the restaurant establishment.

4. An unobstructed width of five feet shall be maintained for use by the public.

5. The sidewalk café may be open from 6:00 a.m. to 11:00 p.m.

6. Food and drink shall only be consumed by patrons seated at a table.

7. A licensee shall be responsible for ensuring compliance with Section 9.20 related to consumption of alcohol beverages purchased outside the licensed premises.

8. No sidewalk café may operate if it disturbs the peace or safety of the surrounding neighborhood.

12.25 OUTDOOR SERVICE AREA. Businesses may expand their premise to create an outdoor service area. The outdoor service area is a portion of the premise whether or not enclosed by a roof which is open to the elements.

(1) **CONDITIONS.** The outdoor area sought to be included in the description of the premise shall meet the following requirements:

(a) The outdoor area must be adjacent to and accessible from the fully enclosed building on the premises;

(b) An outdoor service area should be constructed to meet the criteria for an extension of premise in order for alcohol beverages to be served and consumed.

(c) The outdoor service area shall be completely enclosed by fence or screening or wall which is at least four feet in height, unless the requirement is waived by the Plan Commission;

(d) Prior to the issuance of a license for an outdoor service area, the applicant shall apply to the Plan Commission for appropriate approval under the Zoning Code;

(e) The license holder must obtain an extension of premise onto an Outdoor Service area in order for alcohol beverages to be served, sold, or consumed. Permission to include an outdoor service area as part of a licensed premise is subject to approval by the Common Council.

(f) Previously established outdoor service areas, the West Bend Moose Lodge #1398, 1721 Chestnut Street. and the Fred Schaeffer VFW Post #1393, 260 Sand Drive shall be exempt from the Outdoor Service Area requirements. These areas must still obtain an extension of premise in order for alcohol beverages to be served, sold, or consumed.

(g) No outdoor service areas including exempt properties may operate if it disturbs the peace or safety of the surrounding neighborhood.

12.26 WEIGHTS AND MEASURES LICENSE.

(1) **DEFINITIONS.**

(a) Commercial weighing or measuring devices are those used or employed in establishing the size, quantity, extent, area or measurement of quantities, things, produce or articles for sale, hire or award, or in computing any basic charge or payment for services rendered on the basis of weight or measure.

(b) Weights and Measures Program includes administration and enforcement of this section and ch. 98, Stats., and any related actions.

(2) **LICENSE REQUIRED.**

(a) Except as provided in par. (b), no person shall operate or maintain weights and measures, weighing or measuring devices and systems and accessories relating thereto which are used commercially within the City of West Bend in determining the weight, measure or count of commodities or things sold or offered or exposed for sale on the basis of weight, measure or

count unless each such device is licensed by an annual weights and measures license issued pursuant to the provisions of this section.

(b) Occasional sales temporarily permitted by a special event permit are exempt from licensing under this section.

(3) APPLICATION. The application for a weighing or measuring device license shall be made in writing on a form provided for such purpose by the City Clerk and signed by an individual authorized to sign for the applicant. Such application shall state the type and number of weighing and measuring devices to be licensed, the address at which the device(s) is located, the applicant's full name and post office address and whether such person is an individual, partnership, limited liability company or corporation. If a partnership, the application shall state the names of partners together with their addresses. If a corporation or limited liability company, the application shall state the names and addresses of all officers and agents of the applicant.

(4) ISSUANCE: FEES. The City Clerk shall issue a license to the applicant if the requirements of this Code have been met. Each store or other business location shall require a separate license.

(5) TERM. Licenses issued under this section shall expire on December 31 of each year.

(6) ENFORCEMENT FOR NONRENEWAL. It shall be the duty of the City Clerk to notify the appropriate city officials and to order the immediate enforcement of the provisions of this section in cases involving failure to renew a weighing or measuring device license. Said licensee shall be prohibited from operating or maintaining a weighing or measuring device until such time as a valid license has been obtained under the provisions of this section.

(7) ASSESSMENT.

(a) The Council shall annually assess fees to each licensee based on the numbers and types of weighing and measuring devices licensed as of January 1 of that year. The total of the fees assessed and the fees collected under sub. (4) shall not exceed the actual costs of the weights and measures program.

(b) The Clerk shall prepare a proposed schedule of assessments prior to the assessment and mail to each licensee a copy of the proposed schedule together with notice of the date and time at which the Council will consider the assessments.

(c) At least 10 days after such mailing, the Council shall consider the Clerk's proposed schedule of assessments and approve it or adopt such other schedule of assessments as it deems reasonable. The Clerk shall mail to each licensee an invoice for the amount of the fee assessed to the licensee by the Council.

(d) Each licensee shall pay the fee assessed to it within 30 days after the invoice is mailed.

(e) Schedules, notices and invoices shall be considered mailed to a licensee when mailed by first class mail to the licensee at the licensee's address as shown on the application form.

12.27 RESERVED.

12.28 RESERVED.

12.29 RESERVED

12.30 PENALTY. Except as otherwise specifically provided in this chapter, any person who shall violate any provision of this chapter or any order, rule or regulation made hereunder shall be subject to a penalty as provided in sec. 25.04 of this Code.

12.31 RESERVED

12.32 RESERVED

12.33 RESERVED

12.34 RESERVED

12.35 LICENSE AND PERMIT FEES

(1) FEE SCHEDULE. The fees for licenses, permits, services and other matters under this chapter shall be determined from time to time by the Common Council. A schedule of such fees shall be kept on file in the office of the City Clerk.