

CHAPTER 16

LICENSING AND REGULATION OF TRADES

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16.01 DIRECT SALES

(1) Registration Required. It shall be unlawful for any direct seller to engage in direct sales within the City of Fennimore without being registered for that purpose as provided herein.

(2) Definitions. In this ordinance:

(a) “Direct Seller” means any individual who, for him/herself, or for a partnership, association or corporation, sells goods, or takes sales orders for the later delivery of goods, at any location other than the permanent business place or residence of said individual, partnership, association or corporation, and shall include, but not be limited to, peddlers, solicitors and transient merchants. The sale of goods includes donations required by the direct seller for the retention of goods by a donor or prospective customer.

(b) “Permanent Merchant” means a direct seller who, for at least one year prior to the consideration of the application of this ordinance to said merchant, a) has continuously operated an established place of business in this city or b) has continuously resided in this city and now does business from his/her residence.

(c) “Goods” shall include personal property of any kind, and shall include goods provided incidental to services offered or sold.

(d) “Charitable Organization” shall include any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such.

(e) “Clerk” shall mean the City Clerk.

(3) Exemptions. The following shall be exempt from all provisions of this ordinance:

(a) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes;

(b) Any person selling goods at wholesale to dealers in such goods;

(c) Any person selling agricultural products which such person has grown or been issued a permit to sell; provided, however, that no such person shall take up more than two (2) parking spaces on Lincoln Avenue and more than one (1) 16' frontage space in Memorial Park on Lincoln Avenue.

(d) Any permanent merchant or employee thereof who takes orders away from the established place of business for goods regularly offered for sale of such merchant within this country and who delivers such goods in their regular course of business;

(e) 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;

(f) Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer;

(g) Any person selling or offering for sale a service unconnected with the sale or offering for sale of goods;

(h) Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction;

(i) Any person who claims to be a permanent merchant, but against whom complaint has been made to the Clerk that such person is a transient merchant; provided that there is submitted to the Clerk, proof that such person has leased for at least one year, or purchased the premises from which he/she is conducting business, or proof that such person has conducted such business in this City for at least one year prior to the date complaint was made.

(4) Registration.

(a) Applicants for registration must complete and return to the Clerk a registration form furnished by the Clerk which shall require the following information:

(1) Name, permanent address and telephone number, and temporary address, if any;

- (2) Age, height, weight, color of hair and eyes;
 - (3) Name, address and telephone number of the person, firm, association or corporation that the direct seller represents or is employed by, or whose merchandise is being sold;
 - (4) Temporary address and telephone number from which business will be conducted, if any;
 - (5) Nature of business to be conducted and a brief description of the goods offered, and any services offered;
 - (6) Proposed method of delivery of goods, if applicable;
 - (7) Make, model and license number of any vehicle to be used by applicant in the conduct of his/her business;
 - (8) Last cities, villages, towns, not to exceed three, where applicant conducted similar business;
 - (9) Place where applicant can be contacted for at least seven days after leaving this City.
 - (10) Statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's transient merchant business within the last five years; the nature of the offense and the place of conviction.
- (b) Applicants shall present to the Clerk for examination:
- (1) A drivers license or some other proof of identity as may be reasonably required;
 - (2) A state certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighing and measuring devices approved by state authorities;
 - (3) A state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than 90 days prior to the date the application for license was made.

(c) At the time the registration is returned, a fee of \$5 shall be paid to the Clerk to cover the cost of processing said registration, provided, however, that no registration fee shall be charged to any charitable organization.

The applicant shall sign a statement appointing the Clerk his/her agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant, in the event the applicant cannot, after reasonable effort, be served personally.

Upon payment of any required fee and the signing of said statement, the Clerk shall register the applicant as a direct seller and date of entry. Said registration shall be valid for a period of one year from the date of entry subject to subsequent refusal as provided in s. 16.01(5)(b) below.

(5) Investigation.

(a) Upon receipt of each application, the Clerk may refer it immediately to the Chief of Police who may make and complete an investigation of the statements made in such registration. The Chief of Police shall complete said investigation promptly which shall be construed to mean within 48 hours unless he has, after making diligent efforts, been unable to obtain the necessary information within said period. The running of the 48 hour period shall occur only on business days, and it shall not be deemed to be running on any Saturday, Sunday or legal holiday.

(b) The Clerk shall refuse to register the applicant if it is determined, pursuant to the investigation above, that: the application contains any material omission or materially inaccurate statement; complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns, not exceeding three, in which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation or ordinance violation within the last five years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or the applicant failed to comply with any applicable provision of s. 16.01(4)(b) above.

(6) Regulation of Direct Sellers.

(a) Prohibited Practices.

(1) A direct seller shall be prohibited from: calling at any dwelling or other place between the hours of 9 o'clock p.m. and 9 o'clock a.m. except by appointment; calling at any dwelling or other place where a sign is displayed bearing the word "No Peddlers", "No Solicitors" or words of a similar meaning; calling at the rear door of any dwelling place; or 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 offered for sale, the purpose of his/her visit, his/her identity or the identity of the organization he/she represents. A charitable organization direct seller shall specifically disclose what portion of the sale price of goods being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the goods.

(3) No direct seller shall impede the free use of sidewalk and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.

(4) No direct seller shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a one-hundred foot radius of the source.

(5) No direct seller shall allow rubbish or litter to accumulate in or around the area in which he/she is conducting business.

(b) Disclosure Requirements.

(1) After the initial greeting and before any other statement is made to a prospective customer, a direct seller shall expressly disclose his/her name, the name of the company or organization he/she is affiliated with, if any, and the identity of goods or services he/she offers to sell.

(2) If any sale of goods is made by the direct seller, or any sales order for the later delivery of goods is taken by the seller, the buyer shall have the right to cancel said transaction if it involves the extension of credit or is a cash transaction of more than \$25, in accordance with the procedure as set forth in s. 423.203, Wis. Stats.; the seller shall give the buyer two copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of s. 423.203(1)(a)(b) and (c), (2) and (3), Wis. Stats.

(3) If the direct seller takes a sales order for the later delivery of goods, he/she shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance whether full, partial or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date and whether a guarantee or warranty is provided and, if so, the terms thereof.

(7) Records. The Chief of Police shall report to the Clerk all convictions for violation of this ordinance and the Clerk shall note any such violation on the record of the registrant convicted.

(8) Revocation and Registration.

(a) Registration may be revoked by the Common 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, violated any provision of this ordinance 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.

(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 hearing and a statement of the acts upon which the hearing will be based.

(9) Penalty. Any person convicted of violating any provisions of s. 16.01 of this code shall forfeit not less than Ten Dollars (\$10) nor more than One-Hundred Dollars (\$100) for each violation plus costs of prosecution. Each violation shall constitute a separate offense. In the event of failure to pay said forfeiture and cost, said person shall be imprisoned in the County Jail not to exceed 20 days or until said forfeiture and costs are paid.

16.02 LARGE ASSEMBLIES

(1) Intent. It is the purpose of section 16.02 of this code to regulate the assemblage of large numbers of people in excess of those normally meeting the health, sanitary, fire, police, transportation and utility services regularly provided in the City of Fennimore, in order that the health, safety and welfare of all persons in the City, residents and visitors alike, may be protected.

(2) License Required.

(a) No person shall permit, maintain, promote, conduct, advertise, act as entrepreneur, undertake, organize, manage or sell or give tickets to any actual or reasonably anticipated assembly of 2,000 or more people which assembly continues or can reasonably be expected to continue overnight or for 18 or more consecutive hours, whether on public or private property, unless a license to hold the assembly has first been issued pursuant to this section. A license to hold an assembly issued to one person shall not permit any person to engage in any lawful activity in connection with the holding of the licensed assembly.

(b) As used in this section:

(1) "Person" means an individual natural human being, partnership, corporation, firm, company, association, society or group.

(2) "Assembly" means a company of persons gathered together at any time for any purpose.

(3) An overnight assembly is an assembly of 2,000 or more persons which continues between the hours of 9:00 p.m. and 5:00 a.m. consecutively.

(c) A separate license shall be required for each calendar day or part thereof and each location in which 2,000 or more people assemble or can reasonably be anticipated to assemble; the fee for each license shall be \$100.00.

(d) A license shall permit the assembly of only the maximum number of people stated in the license. The licensee shall not sell tickets to nor permit to assemble at the licensed location more than the maximum number of people permitted by said license.

(e) A license shall not permit the sound of the assembly to carry unreasonably beyond the enclosed boundaries of the location of the assembly.

(f) This section shall not apply to any regularly established, permanent place of worship, stadium, athletic field, arena, auditorium, coliseum, or other similar permanently established place of assembly for assemblies which do not exceed by more than 250 people the maximum seating capacity of the structure where the assembly is held.

(g) This section shall not apply to government sponsored fairs held on regularly established fairgrounds.

(3) Conditions for Issuing License. Before a license may be issued the applicant shall first:

(a) Determine the maximum number of people which will be assembled or admitted to the location of the assembly, provided that the maximum number shall not exceed the maximum number which can reasonably assemble at the location of the assembly in consideration of the nature of the assembly and provided that, where the assembly is to continue overnight, the maximum number shall not be more than is allowed to sleep within the boundaries of the location of the assembly by the zoning or health ordinances of the City.

(b) Provide proof that he will furnish at his own expense before the assembly commences:

(1) A fence completely enclosing the proposed location, of sufficient height and strength to prevent people in excess of the maximum permissible number from gaining access to the assembly grounds, which shall have at least four gates, at least one at or near four opposite points of the compass.

(2) Potable water, meeting all federal and state requirements for purity, sufficient to provide drinking water for the maximum number of people to be assembled at the rate of at least one gallon per person per day and water for bathing at the rate of at least 10 gallons per person per day.

(3) Separate enclosed toilets for males and females meeting all state and local specifications, conveniently located throughout the grounds, sufficient to provide facilities for the maximum number of people to be assembled at the rate of at least one female and one male toilet for every 500 persons together with an efficient sanitary means of disposing of water matter deposited, which is in compliance with all state and local laws and regulations, a lavatory with running water under pressure and a continuous supply of soap and paper towels which shall be provided with each toilet.

(4) A sanitary method of disposing of solid waste, in compliance with state and local laws and regulations, sufficient to dispose of the solid waste production of the maximum number of people to be assembled at the rate of at least 2.5 lbs. of solid waste per person per day, together with a plan for holding and a plan for collecting all such waste at least once each day of the assembly and sufficient trash cans with tight fitting lids and personnel to perform the task.

(5) Physicians and nurses licensed to practice in Wisconsin sufficient to provide the average medical care enjoyed by residents of Wisconsin for the maximum number of people to be assembled at the rate of at least one physician for every 1,000 people and at least one nurse for every 1,500 people, together with an enclosed covered structure where treatment may be rendered, containing separately enclosed treatment rooms for each physician, and at least one emergency ambulance available for use at all times.

(6) If the assembly is to continue during hours of darkness, illumination sufficient to light the entire area of the assembly at the rate of at least five foot candles, but not to shine unreasonably beyond the boundaries of the enclosed location of the assembly.

(7) A free parking area inside of the assembly grounds sufficient to provide parking space for the maximum number of people to be assembled at the rate of at least one parking space for every four persons.

(8) Telephones connected to outside lines sufficient to provide service for the maximum number of people to be assembled at the rate of at least one separate line and receiver for each 1,000 persons.

(9) If the assembly is to continue overnight, camping facilities in compliance with all state and local requirements as set forth in Wisconsin Administrative Code and ordinances of this municipality, sufficient to provide camping accommodations for the maximum number of people to be assembled.

(10) Security guards, either regularly employed, duly sworn, off duty Wisconsin peace officers or private guards, licensed in Wisconsin, sufficient to provide adequate security for the maximum number of people to be assembled at the rate of at least one security guard for every 750 people.

(11) Fire protection, including alarms, extinguishing devices and fire lanes and escapes sufficient to meet all state and local standards of the assembly as set forth in the Wisconsin Administrative Code and ordinances of this municipality, and sufficient emergency personnel to efficiently operate the required equipment.

(12) All reasonably necessary precautions to insure that the sound of the assembly will not carry unreasonably beyond the enclosed boundaries of the location of the assembly.

(13) A bond, filed with the City Clerk, either in cash or underwritten by a surety company licensed to do business in Wisconsin at the rate of \$1.00 per person for the maximum number of people permitted to assemble, which shall indemnify and hold harmless this municipality or any of its agents, officers, servants and employees from any liability or cause of action which might arise by reason of granting this license, and from any cost incurred in cleaning up any waste material produced or left by the assembly.

(14) Certificates of insurance coverage issued by bona fide insurance companies licensed to transact business in this state showing that such companies have insured said applicant, and said assembly in the following ways:

(a) A comprehensive public liability policy with a maximum limit for all claims in the amount of \$2,000,000.00 and containing a medical payments coverage guaranteeing payment of all medical bills incurred within one year of the injury by any person or reason of any injury on said premises during such assembly to a maximum of \$5,000.00 per person.

(b) A fire legal liability policy with a maximum limit of \$2,000,000.00.

(c) Workmen's Compensation Insurance as required by Wisconsin Law.

(4) Application.

(a) Application for a license to hold an actual or anticipated assembly of 2,000 or more persons shall be made in writing to the City Clerk at least 30 days in advance of such assembly.

(b) The application shall contain a statement made upon oath or affirmation that the statements contained therein are true and correct to the best knowledge of the applicant and shall be signed and sworn to or affirmed by the individual making application in the case of an individual by all officers in the case of a corporation, by all partners in the case of a partnership or by all officers of an unincorporated association, society or group or, if there be no officers, by all members of such association, society or group.

(c) The application shall contain and disclose:

(1) The name, age, residence and mailing address of all persons required to sign the application by Section 16.02(4)(b) of this chapter and, in the case of a corporation, a certified copy of the articles of incorporation together with the name, age, residence and mailing address of each person holding 10 percent or more of stock in said corporation.

(2) The address and legal description of all property upon which the assembly is to be held together with the name, residence and mailing address of the record owner or owners of all such property.

(3) Proof of ownership of all property upon which the assembly is to be held or a statement made upon oath or affirmation by the record owner or owners of all such property that the applicant has permission to use such property for an assembly of 2,000 or more persons.

(4) The nature or purpose of the assembly.

(5) The total number of days and hours during which the assembly is to continue.

(6) The maximum number of persons which the applicant shall permit

to assemble at any time, which shall not exceed the maximum number which can reasonably assemble at such location considering the nature of the assembly.

(7) The maximum number of tickets to be sold, if any.

(8) The plans of the applicant to limit the maximum number of people permitted to assemble.

(9) The plans for fencing the location of the assembly and the gates contained in such fence.

(10) The plans for supplying potable water including the source, amount available and location of outlets.

(11) The plans for providing toilet and lavatory facilities including the source, number and location, type and the means of disposing waste deposited.

(12) The plans for holding collection, and disposing of solid waste material.

(13) The plans to provide for medical facilities including the location and construction of a medical structure, the names and addresses and hours availability of physicians and nurses and provisions for emergency ambulance service.

(14) The plans, if any, to illuminate the location of the assembly including the source and amount of power and the location of lamps.

(15) The plans for parking vehicles including size and location of lots, points of highway access and interior roads, including routes between highway access and parking lots.

(16) The plans for telephone service including the source, number and location of telephone.

(17) The plans for camping facilities, if any, including facilities available and their location.

(18) The plans for security including the number of guards, their deployment, and their names, addresses, credentials and hours of availability.

(19) The plans for fire protection including the number, type and location of all protective devices including alarm and extinguishers, and the

number of emergency fire personnel available to operate the equipment.

(20) The plans for sound control and sound amplification, if any, including number, location and power of amplifiers and speakers.

(21) The plans for food concessions and concessionaires who will be allowed to operate on the grounds including the names and addresses of all concessionaires and their license or permit numbers.

(d) The application shall include a bond required by Section 16.02(3)(b)(13), the insurance certificates required by Section 16.02(3)(b)(14), and the license fee.

(5) Issuance. The application for a license shall be processed within 20 days of receipt and the license shall be issued if all conditions are complied with.

(6) Revocation. The license shall be revoked by the City Clerk at any time if it is established that any of the conditions necessary for the issuing of or contained in the license are not complied with, or if any condition previously met ceases to be complied with.

(7) Enforcement.

(a) The provisions of this ordinance may be enforced by injunction in any court of competent jurisdiction.

(b) The holding of an assembly in violation of any provision or condition contained in this ordinance shall be deemed a public nuisance and may be abated as such.

(c) Any person who violates any provision of Section 16.02 of this Code shall forfeit not less than \$1,000.00 nor more than \$10,000.00 together with the costs of prosecution, and in default of payment thereof shall be imprisoned in the Grant County Jail not to exceed 90 days. Each day of violation shall be considered a separate offense.

(8) Miscellaneous General Provisions.

(a) Nothing in this section shall be construed as amending or repealing any ordinance of the City of Fennimore dealing with sanitation.

(b) Nothing in this section shall be construed as amending or repealing any ordinance of the City of Fennimore regulating public dances.

16.03 MOBILE HOME PARKS

- (1) Statutes Adopted by Reference. The provisions of s.66.0435, Wis. Stats., and the definitions therein are hereby adopted by reference.
- (2) Monthly Parking Fee. There is hereby imposed on each occupied, nonexempt mobile home located in the City of Fennimore a monthly parking fee as determined in accordance with s.66.0435, Wis. Stats. Said fees shall be paid to the City Treasurer on or before the 10th day of the month following the month for which such fees are due.
- (3) License for Mobile Home Park. It shall be unlawful for any person to establish or operate upon property owned or controlled by him within the City of Fennimore a mobile home park without having first secured a license theretofore from the City Clerk. The application for such license shall be accompanied by a fee of not less than \$25.00 nor more than \$100.00 for each space in the existing or proposed park. The license shall expire one year from the date of issuance. Such park shall comply with Wisconsin Administrative Code ATCP 125, which is hereby adopted by reference.
- (4) Information and Collection Requirements.
 - (a) Information Required. Licensees of mobile home parks and owners of land on which are parked any occupied, nonexempt mobile homes shall furnish information to the City Clerk and City Assessor on such homes added to their park or land within 5 days after arrival of such homes on forms furnished by the City Clerk in accordance with s. 66.0435(3)(c) and (e), Wis. Stats.
 - (b) Payment of Fees. Occupants or owners of nonexempt mobile homes parked outside of a mobile home park shall remit such fees directly to the City Treasurer as provided in Section 16.03(2). It shall be the full and complete responsibility of the licensee of a mobile home park to collect such fees from each occupied, nonexempt mobile home therein and to remit such fees to the City Treasurer as provided in Section 16.03(2).
- (5) Penalty. Any person, firm or corporation who fails to comply with any of the provisions of Section 16.03 of this Code shall, upon conviction thereof, forfeit not less than \$10 nor more than \$100 together with the costs of prosecution for each violation, and in default of payment thereof shall be imprisoned in the County Jail until such forfeiture and costs are paid, not exceeding 30 days. It is provided however, that the maximum forfeiture for violation of Section 16.03(4)(a) shall be \$25.

16.04 ALCOHOL BEVERAGES

(1) State Statutes Adopted. The provisions of Chapter 125, Wisconsin Statutes, defining and regulating the sale, procurement, dispensing and transfer of alcohol beverages, including provisions relating to the penalty to be imposed or the punishment for violation of such statutes, except where otherwise specifically provided herein, are adopted and made a part of this section by reference. A violation of any such provisions shall constitute a violation of this ordinance, and shall result in a forfeiture equal to any forfeiture or fine as established by said statutes. All of the provisions of Chapter 125, Wisconsin Statutes, are hereby adopted and incorporated herein by reference as a part of the Municipal Code of the City of Fennimore. All changes and amendments of Chapter 125, Wisconsin Statutes, are hereby adopted and incorporated herein by reference.

(2) License Fees. No person, firm or corporation shall sell or offer for sale any alcohol beverages without first obtaining one of the following licenses:

(a) Retail "Class A" Intoxicating Liquor License. A Retail "Class A" license shall permit its holder to sell, deal and traffic in intoxicating liquors only in original packages or containers, in quantities of not more than three wine gallons at one time, and to be consumed off the premises so licensed, except that wine may be sold in the original package or otherwise in any quantity. The license fee for a Retail "Class A" license shall be 3100.00 per year.

(b) Retail "Class B" Intoxicating Liquor Licenses. A Retail "Class B" license shall permit its holder to sell, deal and traffic in intoxicating liquors to be consumed by the glass only on the premises so licensed and not in the original package or container. Wine, however, may be sold in the original package or otherwise in any quantity to be consumed off the premises. The license fee for a Retail "Class B" license shall be \$300.00 per year.

(c) Retail Class "A" Fermented Malt Beverage License. Class "A" license shall authorize the sales of fermented malt beverages only for consumption away from the premises where sold and in the original packages, containers or bottles. The fee for a Class "A" license shall be \$100.00 per year or fractional part thereof.

(d) Retail Class "B" Fermented Malt Beverage License. A Retail Class "B" license shall permit its holder to sell, deal and traffic in fermented malt beverages either to be consumed on the premises where sold or away from such premises. The fee for a Class "B" license shall be \$100.00 per year. The licenses may be issued at any time for a period of six months in any calendar year, for which a license fee of \$75.00 shall be paid.

(e) Retail "Class C" Wine License. A Retail "Class C" wine license shall permit the holder to sell wine by the glass or in an opened original container for consumption on the premises where sold. The fee for a "Class C" license shall be \$100.00 per year.

(3) Operator's License. Operator's licenses may be granted to individuals by the Common Council for the purpose of complying with Section 125.32(3) and 125.68(2), Wisconsin Statutes. Operator's licenses may be issued only on written application forms provided by the City Clerk. Said licenses shall be valid for two years and shall expire on the second June 30th after issuance. The application shall include the name of the business where the applicant proposes to work. The fee for an operator's license shall be \$20.00 for a two year license and the application shall be accompanied by the license fee and a nonrefundable application fee of \$5.00. The fee for renewal of said license, together with the application fee, shall be the same as for a new license. The fee for a duplicate license shall be \$10.00.

(4) A provisional operator's license may be issued by the City Clerk or his or her deputies to a person who is enrolled in a beverage server training course as defined in Wis. Stat. sec. 125.17(6)(a) and who meets all of the other requirements for a regular operator's license. Such licenses may be issued only on written application forms provided by the City Clerk and upon application for a regular operator's license. Said licenses shall be valid only until the applicant successfully completes the course in which he or she is enrolled, at which time the person shall be eligible for a regular operator's license under Section 16.04(3) of this Code. The provisional operator's license shall lapse after 60 days or upon the issuance of a regular operator's license, whichever occurs first. No provisional license may be issued to any person who has been denied an operator's license by the Common Council. The City Clerk or his or her deputy may revoke the license if he or she discovers that the holder of the provisional license made a false statement in his or her license application. The fee for the provisional operator's license shall be \$15.00, and is additional to the fee for a regular operator's license.

(5) License Application.

(a) Form. Application for a license to sell or deal in alcohol beverages shall be made in writing on the form prescribed by the State of Wisconsin and shall be sworn to by the applicant and shall be filed with the City Clerk not less than fifteen days prior to the granting of such license. Applications for Retail "Class B" Intoxicating Liquor Licenses shall be made no later than April 15, of each year. The premises shall be physically described to include every room and storage space to be covered by the license, including all rooms not separated by a solid wall or joined by connecting entrances.

(b) Cost of Publication. Said application shall be accompanied by the cost of publication and shall be published as prescribed in 125.04(3)(g), Wisconsin Statutes.

(c) Changes. Whenever anything occurs to change any facts set out in the application of any licensee, such licensee shall file with the issuing authority a notice in writing of such change within ten days after the occurrence thereof.

(d) Payment of Fees. At the time of application for a license to sell or deal in alcohol beverages is filed with the City Clerk, the City Clerk shall advise the applicant of the date on which the Common Council shall meet to act upon the license application. The City Clerk shall further advise the applicant that the fee required under this ordinance for the particular license applied for shall be paid to the City Clerk not later than fifteen days prior to the date of the Common Council meeting at which the license is to be acted upon. The City Clerk shall further advise the applicant that if such fee is not paid on or before the 15th day preceding the license meeting, the Common Council shall not act on the application. Applicants for Retail "Class B" Intoxicating Liquor Licenses shall be advised at the time of application that no such license application will be acted upon by the Common Council after June 15th of each year. Failure to pay license fees in the time and in the manner required under this section shall result in no action being taken by the Common Council on any license application.

(6) Inspection.

(a) Officers to Inspect. The City Clerk shall notify the Chief of Police, Health Commissioner, Chief of Fire Department and Building Inspector of such application and these officials shall inspect or cause to be inspected each application and 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 Common Council in writing, or in such other manners as the Council provides, the information derived from such investigation, and a statement as to whether the applicant and the premises meet the requirements of the department for whom the officer is certifying. No license shall be renewed without a reinspection of the premises.

(b) Suitability of Applicant. In determining the suitability of an applicant, consideration shall be given to the moral character and financial responsibility of the applicant, the appropriateness of the location and premises where such licensed business is to be conducted, and generally the applicant's fitness for the trust to be reposed.

(7) Granting of Licenses.

(a) License Meetings. The Common Council shall meet and act upon license application. Upon approval of any license application, a duplicate copy of such application shall be forwarded to the Wisconsin Department of Revenue.

(b) Opportunity to be Heard. Opportunity shall be given by the Common Council to any person who wishes to be heard for or against the granting of any license.

(c) Issuance of License. Upon the approval of the application by the Common Council, the City Clerk shall issue to the applicant the license applied for. At the time of

issuance, all license fees shall be paid to the City Treasurer, who shall deposit them in the General City Fund. All licenses shall be numbered in the order in which they are issued and shall state clearly the specific premises for which granted, the date of issuance, the fee paid, the name of the licensee and the fact that they shall expire on the 30th day June thereafter. The City Clerk shall affix to the license the affidavit provided in Section 125.04(4)(c), Wisconsin Statutes.

(8) Transfer of Licenses. No license shall be transferable as to a licensee except as provided in Section 124.04(12), Wisconsin Statutes. Licenses issued under this ordinance may, for a fee of \$10.00 be transferred as to place as provided in Section 125.04(12), Wisconsin Statutes. Applications for such a transfer shall be made on blanks furnished by the Department of Revenue. Proceedings for transfer shall be held in the same manner and form as the original application.

(9) License Restrictions.

(a) Statutory Requirements. An alcohol beverage license shall be issued only to persons eligible therefore as permitted under Wisconsin Statutes.

(b) Health and Sanitation Requirements. No applicant may obtain a Class “B” or “Class B” license or permit unless the premises complies with the rules promulgated by the Department of Health and Social Services of the State of Wisconsin governing sanitation in restaurants.

(c) Licensee Required on Premises. There shall be upon premises operated under a “Class B” or Class “B” license for the sale of alcohol beverages, at all times, the licensee or some person who has an operator’s license who is responsible for the acts of all persons serving, as waiters or in any other manner, any alcohol beverages to customers. No member of the immediate family of the licensee who is an underage person shall serve, as a waiter or in any other manner, any alcohol beverages to customers unless an operator who has attained the legal drinking age is present upon and in immediate charge of the premises. No person other than the licensee shall serve alcohol beverages in any place operated under a Class “B” or “Class B” license unless he possesses an operator’s license or unless he is under the immediate supervision of the licensee or a person holding an operator’s license who is, at the time of such service, upon said premises. No licensee shall serve any alcohol beverages unless said person has said operator’s license in his or her immediate possession.

(d) License Posted. Every license or permit required under this ordinance shall be framed and posted and at all times displayed as provided in Section 124.04(10), Wisconsin Statutes. No person shall post a license, or permit any other person to post it, upon premises other than those mentioned in the application, nor shall any person knowingly deface or destroy such license, or permit any other person to do so.

(e) Commencement of Operations. Within 90 days after the issuance of a “Class B” intoxicating liquor license, the licensee shall be open for business with adequate stock and equipment. Upon the licensee’s failure to do business within such time, the license shall be subject to revocation or refusal to renew the license by the Common Council after a public hearing. The Common Council may, for good cause shown, extend and re-extend the 90-day period. “Good cause” may include, but is not limited to, building or rebuilding, extensive remodeling, damage to the premises by fire or natural disaster, the death or disability of the licensee, or other, similar reasons deemed sufficient by the Common Council. Failure of a licensee to open for business within 90 days after the issuance of the license without an extension having been granted by the Common Council shall be sufficient ground for revocation of or refusal to renew the license.

(f) Cessation of Operations. The license of any licensee holding a “Class B” intoxicating liquor license who suspends or ceases doing business for 90 consecutive days or more or who fails to operate the business for at least 150 days, whether consecutive or not, during the term of a license, shall be subject to revocation or refusal to renew the license by the Common Council after a public hearing. The Common Council may, for good cause shown, extend and re-extend the 90-day period. “Good cause” may include, but is not limited to, building or rebuilding, extensive remodeling, damage to the premises by fire or natural disaster, the death or disability of the licensee, or other, similar reasons deemed sufficient by the Common Council. Suspension or cessation of business for 90 consecutive days or more or failure to operate the business for at least 150 days, whether consecutive or not, during the term of a license without an extension having been granted by the Common Council shall be sufficient ground for revocation of or refusal to renew the license.

(10) Regulation of Licensed Premises. Each licensed and permitted premises shall be at all times operated in an orderly manner and no disorderly, riotous or indecent conduct or gambling shall be allowed at any time on the premises. Further, it shall be unlawful to permit slot machines or other gambling devices upon any premises for which a license shall have been issued hereunder.

(11) Hours of Sale. Every licensee and his or her employees, agents or representatives shall observe the following regulations:

(a) Retail Class “A” Fermented Malt Beverages. No person operating under the authority of a Class “A” license shall sell any fermented malt beverages between the hours of 12:00 midnight and 6:00 a.m. of the following day.

(b) Retail “Class A” Intoxicating Liquors. No person operating under the

authority of a "Class A" license shall sell intoxicating liquor between the hours of 9:00 p.m. and 6:00 a.m. of the following day.

(c) Retail "Class B," "Class C" or Class "B" Licenses. No person operating under the authority of a "Class B," "Class C" or Class "B" license shall sell alcohol beverages between the hours of 2:00 a.m. and 6:00 a.m., except that on Saturdays and Sundays, sales may be made until 2:30 a.m. and on January 1st, sales may be made by persons operating under the authority of a "Class B," or Class "B" license all day. However, between 12:00 midnight and 6:00 a.m., no person shall sell alcohol beverages on "Class B" or Class "B" licensed premises in an original unopened package, container or bottle or for consumption away from the premises. No alcohol beverages shall be consumed on any licensed premises after the closing hour of said premises. By said closing hour all glasses and bottles must be removed from bars and tables before customers, and all customers must be out of the premises unless said premises are part of a hotel whose principal business is the furnishing of lodging to patrons or a restaurant whose principal business is the furnishing of food or to a combination grocery store and tavern or to a bowling center, pool hall or recreational premises (including horse-shoe pitching facilities, curling clubs, golf courses and golf clubhouses) or to a bona fide club, society or lodge which shall in each case be permitted to remain open for the conduct of their regular business, but shall not be permitted to sell alcohol beverages during the restricted hours or permit the consumption of alcohol beverages on said premises during the restricted hours. Any licensed premises other than those accepted aforesaid because of other types of business conducted therein shall not be occupied by any person after the closing hour for any purpose other than cleaning and maintenance. For the purpose of cleaning and maintenance, said licensee shall permit only the members of the licensee's family and not more than two registered cleaners and not more than two persons holding an operator's license. Any licensee may register his cleaners by filing their names with the City Clerk. Any licensee may change the names of his registered cleaners at any time by filing a new name or names with the City Clerk. The presence of any person or persons within any such licensed premises, except for the exception as to other businesses, is absolutely prohibited during the restricted hours other than to the licensee. This restriction does not apply to emergency entrance for such matters as fire and repair of utilities or equipment.

(12) Revocation and Suspension. The Common Council may suspend, revoke or refuse to renew any license issued pursuant to this section in accordance with Section 125.12, Wisconsin Statutes. When a license is revoked because of violations under this ordinance, or under the provisions of Section 125.12, Wisconsin Statutes, the revocation shall be recorded by the Clerk and no other license issued under this ordinance may be granted within twelve months of the revocation to the person whose license was revoked. No part of the fee paid for the license shall be refunded after the license is revoked.

(13) Violations by Agents and Employees. A violation of this chapter by an

unauthorized agent or employee of a licensee shall constitute a violation by the licensee.

(14) Penalties. Any person, firm or corporation violating any of the provisions of Section 16.04 of this Code for which no penalty is provided under Chapter 125 of the Wisconsin Statutes shall, upon conviction thereof, forfeit not more than \$500.00 and the costs of prosecution, and in default of payment of said forfeiture and costs, may be subject to the penalties provided under Wis. Stat. sec. 66.12. Each day a violation continues shall constitute a separate offense.

(15) Conflict and Severability. The provisions of Section 25.02 of this Code shall apply to the provision of Section 16.04.

16.05 CIGARETTE SALES

(1) License Required. No person shall in any manner or upon any pretense, or by any device, directly or indirectly sell, expose for sale, possess with intent to sell, exchange, barter, dispose of or give away any cigarettes to any person not holding a license as herein provided for a permit as provided under Section 139.30 to 139.41, Wis. Stats., without obtaining a license from the City.

(2) Issuance of License. Upon filing a proper written application, said license shall be issued on July 1 of each year or when applied for and continue in force until the following City Clerk before the license is issued.

(3) License Specifications. Each such license shall name the licensee and specifically describe the premises where such business is to be conducted. Such licenses shall not be transferable from one person to another nor from one premises to another.

(4) Records. A licensed retailer shall keep complete records of all purchases and receipts of cigarettes. Such receipts shall be preserved on the licensed premises for two (2) years in such a manner to insure permanence and accessibility for inspection and shall be subject to inspection at all reasonable hours by authorized state and local law enforcement officials.

(5) Penalties. Any person violating any of the provisions of Section 16.06 of this Code shall pay a forfeiture of not less than \$25 nor more than \$100 for the first offense and not less than \$25 nor more than \$200 for the second offense within a license year. If upon such second or subsequent violation, the person so violating this section was personally guilty of a failure to exercise due care to prevent violation thereof, he shall pay a forfeiture of not less than \$25 nor more than \$300. Such conviction shall immediately terminate the license of the person convicted of being personally guilty of such failure to exercise due care and such person shall not be entitled to another license hereunder for a period of five (5) years thereafter, nor shall he in that period act as a servant or agent of a

person licensed hereunder for the performance of the acts as authorized by the license. Any person convicted of a violation of this section shall pay the costs of prosecution. In the event of his failure to pay the forfeiture and costs, he shall be subject to the penalties provided under Wis. Stat. sec. 66.12.

16.06 SALES ON STREET AND SIDEWALKS.

(1) Selling on City Streets Prohibited. No person shall sell, peddle or hawk anything on the streets, sidewalks, parks or other city owned property in the City of Fennimore.

(2) Ban on Sale on City Streets May be Lifted by Mayor's Proclamation. The Mayor of the City of Fennimore may, by proclamation, on certain occasions, lift the ban against the sale of goods on streets, sidewalks, parks and other city owned property as set out in s. 16.06(1). Any proclamation made under this ordinance shall require that persons desiring to sell, peddle, or hawk anything on the streets, sidewalks, parks or other city owned property must first obtain a license from the City Clerk. The proclamation shall require that the license must be obtained at least 20 days prior to the day for which the license is being obtained. The proclamation by the Mayor under this section may limit the number of licenses to be issued for each occasion and the decision as to the number of licenses shall be left to the discretion of the Mayor based on considerations of preventing congestion on public property and maintaining order and proper health standards during public functions.

(3) License Fee. Each applicant required to obtain a license under s. 16.06(2) shall pay a \$2.00 license fee to the City Clerk prior to the granting of the license to the applicant.

(4) Exceptions. The prohibitions contained in 16.06 of this Code shall not apply to the following: Newsboys; merchants delivering goods in the regular course of the business; venders of milk, bakery goods, groceries or distributing products to only regular customers on established routes; farms and truck gardeners; merchants who sell on Maxwell Street Day with the permission of the Fennimore Chamber of Commerce or during Ag-Daze; a person selling property at wholesale to dealers; but such person shall comply with the provisions of s. 16.06(5).

(5) Loud Noise and Speaking Devices. No licensee, licensed under the provisions of s. 16.06(2) nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the streets, sidewalks, parks or other city owned property where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, sidewalks, parks or other city owned property, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

(6) Time of license limited. The granting of each license shall be limited in time to the event for which the application is made and in no event shall the license continue for a period longer than 5 days.

(7) Section 16.01 Does Not Apply to the Provisions of This Section. The provisions of s. 16.01 of this Code shall not apply to the applicants or licensees governed by this section.

16.07 BICYCLES

(1) Definition. Bicycle means every device propelled by the feet acting upon peddles and having wheels, any two of which are more than 12 inches in diameter when inflated. Bicycle shall also mean all mopeds which are not required to be licensed under licensing rules of the State of Wisconsin.

(2) Registration Required. No person shall ride, propel or use a bicycle on any public sidewalk, footpath, road or alley in the City of Fennimore without first having registered and obtained a bicycle registration hereinafter provided.

(3) Registration.

(a) Application. Application for registration shall be made by filing with the Chief of Police the name, address and age of the owner, a complete description of the bicycle and any other information deemed necessary by the Chief of Police, on forms provided by the City of Fennimore, and paying a one-time registration fee of \$3.00. No registration shall be granted on behalf of any person under the age of 10 years unless accompanied by a parent or guardian. Registration shall be serially numbered and maintained by the Police Department as a public record. Upon such registration the Chief of Police shall issue a registration card and cause a registration sticker to be affixed to the bicycle registered, serially numbered to correspond with the registration number.

(b) The one-time registration fee for all bicycles shall be the sum of \$3.00. All applicants for registration shall agree to attend a course in safety as directed by the Chief of Police.

(c) Removal of Registration Sticker. No person shall willfully remove, deface or destroy any registration sticker on a bicycle not belonging to him or her.

(d) Replacement Stickers. In the event of the loss or destruction of the registration sticker, a duplicate or substitute sticker shall be issued for a fee of \$.25 upon the filing of a statement of loss or destruction by the owner with the Chief of Police, satisfying the Chief that such theft or destruction actually occurred.

(e) **Transfer of Ownership.** Within ten (10) days after a bicycle shall have been dismantled or transferred to another owner or taken out of operation, the person in whose name the bicycle has been registered shall report such information to the Chief of Police, and the registration shall be canceled. In the event an owner wishes to transfer registration and the registration sticker to another owner, application shall be made for such transfer in accordance with s. 16.07(3)(a), except that no fee shall be charged for the transfer. Transfer of registration or registration stickers between bicycles is prohibited.

(f) **Unsafe Bicycle.** No bicycle shall be registered or operated which is in an unsafe mechanical condition. The Police Department shall refuse registration or have the authority to suspend the registration and impound the bicycle or take such other steps as authorized by the Chief of Police until the same is made safe.

(g) **Report of Registration.** A complete report shall be made to the City Treasurer by the Chief of Police of funds received for registration of bicycles and all fees shall be paid to the City Treasurer within a reasonable time after the receipt of the same.

(4) **Conditions of Registration.** Every registration issued hereunder shall be deemed to be granted subject to the following conditions:

(a) **Compliance with Traffic Rules.** An operator of a bicycle shall observe and be subject to all the applicable provisions of any ordinance regulating traffic within the City of Fennimore.

(b) **Use of State or Federal Highway.** No person shall ride, propel or use a bicycle on any public sidewalk or foot path adjacent to Lincoln Avenue between 4th Street and 13th Street.

(c) **Riding on Sidewalk.** No person shall ride, propel or use a bicycle on any public sidewalk or foot path within the City limits during the hours of darkness, which hours shall be defined as running from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise.

(d) **Yielding Right-of-Way.** No person shall ride, propel or use a bicycle on any public sidewalk or foot path within the City limits without yielding the right-of-way to a pedestrian or pedestrians.

(e) **Parking on Sidewalk.** No person shall park, place or leave any bicycle upon any public sidewalk or foot path within the City.

(f) **Stopping at Intersections.** Any person operating a bicycle upon a public sidewalk or foot path within the City shall come to a complete stop at each intersection and then proceed only when it is safe to proceed.

(5) Display of Sticker. The Police Department shall affix the registration sticker to the bicycle and the owner shall keep the same clean and visible at all times.

(6) Penalties. Any person violating any of the provisions of s. 16.07 of this Code shall pay a forfeiture, not to exceed \$10 or shall have his bicycle license revoked for not more than 90 days, during which time the bicycle shall be impounded by the City Police Department, or shall suffer both a forfeiture and revocation.

16.08 PAWNBROKERS AND SECONDHAND ARTICLE AND JEWELRY DEALERS

(1) Definitions. In this section:

(a) “Article” means any of the following articles except jewelry:

1. Audio-visual equipment.
2. Bicycles.
3. China.
4. Computers, printers, software and computer supplies.
5. Computer toys and games.
6. Crystal.
7. Electronic equipment.
8. Fur coats and other fur clothing.
9. Ammunition and knives.
10. Microwave ovens.
11. Office equipment.
12. Pianos, organs, guitars and other musical instruments.
13. Silverware and flatware.
14. Small electrical appliances.

15. Telephones.

(b) “Charitable organizations” means a corporation, trust or community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, literacy or educational purpose or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(c) “Customer” means any person with whom a pawnbroker, secondhand article dealer or secondhand jewelry dealer or an agent thereof engages in a transaction and purchase, sale, receipt or exchange of any secondhand article or secondhand jewelry.

(d) “Jewelry” means any tangible personal property ordinarily wearable on the person and consisting in whole or in part of any metal, mineral or gem customarily regarded as precious or semiprecious.

(e) “Pawnbroker” means any person who engages in the business of lending money on the deposit or pledge of any article of jewelry, or purchasing any article or jewelry with an expressed or implied agreement or understanding to sell it back at a subsequent time at a stipulated price.

(f) “Secondhand” means owned by any person, except a wholesaler, retailer or secondhand article dealer or secondhand jewelry dealer licensed under this section; immediately before the transaction at hand.

(g) “Secondhand article dealer” means any person who primarily engages in the business of purchasing or selling secondhand articles, except when engaging in any of the following:

1. Any transaction at an occasional garage or yard sale, an estate sale, a gun, knife, gem or antique show, a convention or an auction.

2. Any transaction entered into by a person while engaged in a business for which the person is licensed under subsections (2) or (4) or while engaged in the business of junk collector, junk dealer, auctioneer or scrap processor as described in Wis. Stat. sec. 70.995(2)(x).

3. Any transaction while operating as a charitable organization or conducting a sale proceeds of which are donated to a charitable organization.

4. Any transaction between a buyer of a new article and the person who sold the article when new which involves any of the following:

- a. The return of the article.
- b. The exchange of the article for a different, new article.

5. Any transaction as a purchaser of a secondhand article from a charitable organization if the secondhand article was a gift to the charitable organization.

6. Any transaction as a seller of a secondhand article which the person bought from a charitable organization if the secondhand article was a gift to the charitable organization.

(h) “Secondhand jewelry dealer” means any person who engages in the business of any transaction consisting of purchasing, selling, receiving, or exchanging secondhand jewelry except the following:

1. Any transaction at an occasional garage or yard sale, and estate sale, a gun, knife, gem or antique show, a convention or an auction.

2. Any transaction with a licensed secondhand jewelry dealer.

3. Any transaction entered into by a person while engaged in a business of smelting, refining, assaying or manufacturing precious metals, gems or valuable articles if the person has no retail operation open to the public.

4. Any transaction between a buyer of new jewelry and the person who sold the jewelry when new which involves any of the following:

- a. The return of the jewelry.
- b. The exchange of the jewelry for different, new jewelry.

5. Any transaction as a purchase of secondhand jewelry from a charitable organization if the secondhand jewelry was a gift to the charitable organization.

6. Any transaction as a seller of secondhand jewelry which the person bought from a charitable organization if the secondhand jewelry was a gift to the charitable organization.

(2) License for Pawnbroker. No person may operate as a pawnbroker unless the person first obtains a pawnbroker’s license under this section.

(3) License for Secondhand Article Dealer.

(a) Except as provided in paragraph (b) no person may operate as a secondhand article dealer unless the person first obtains a secondhand article dealer's license under this section.

(b) A person who operates as a secondhand article dealer only on premises or land owned by a person having a secondhand dealer mall or flea market license under subsection (9) need not obtain a secondhand article dealer's license.

(4) License for Secondhand Jewelry Dealer. No person may operate as a secondhand jewelry dealer unless the person first obtains a secondhand jewelry dealer's license under this section.

(5) License Application. A person wishing to operate as a pawnbroker, secondhand article dealer or secondhand jewelry dealer in the City of Fennimore shall apply to the City Clerk for a license. The City Clerk shall furnish application forms which shall require the following:

(a) The applicants name, place and date of birth and residence address.

(b) The names and addresses of the business and of the owner of the business premises.

(c) A statement as to whether the applicant has been convicted within the preceding 1 year of a felony or within the preceding 5 years of a misdemeanor, statutory violation punishable by forfeiture or county or municipal ordinance violation in which the circumstance of the felony, misdemeanor or other offense substantially relate to the circumstances of the licensed activity and, if so, the nature and date of the offense and the penalty assessed.

(d) Whether the applicant is a natural person, corporation or partnership, and;

1. If the applicant is a corporation, the state where incorporated and the names and addresses of all officers and directors.

2. If the applicant is a partnership, the names and addresses of all partners.

(e) The names of the manager or proprietor of the business.

(f) Any other information that the City Clerk may reasonably require.

(6) Investigation of License Applicant. The Fennimore Police Department shall

investigate each applicant for a pawnbroker's, secondhand article dealers or secondhand jewelry dealer's license to determine whether the applicant has been convicted within the preceding 10 years of a felony or within the preceding 5 years of a misdemeanor, statutory violation punishable by forfeiture or county or municipal ordinance violation described under subsection (5)(c) and, if so, the nature and date of the offense and the penalty assessed. The Fennimore Police Department shall furnish the information derived from that investigation to the City Clerk.

(7) License Issuance.

(a) The Common Council of the City of Fennimore shall grant the license if all of the following apply:

1. The applicant, including an individual, a partner or an officer, director or agent of any corporate applicant, has not been convicted within the preceding 10 years of a felony or within the preceding 5 years of a misdemeanor, statutory violation punishable by forfeiture or county or municipal ordinance violation in which the circumstances of the felony, misdemeanor or other offense substantially related to being a pawnbroker, secondhand jewelry dealer, secondhand article dealer or secondhand article dealer mall or flea market owner.

2. With respect to an applicant for a pawnbroker's license, the applicant provides to the Common Council a bond of \$500, with not less than 2 sureties, for the observation of all City ordinances relating to pawnbrokers.

(b) No license issued under this subsection may be transferred.

(c) Validity.

1. Each license for a pawnbroker, secondhand article dealer or secondhand jewelry dealer is valid from January 1 until the following December 31.

2. Each license for a secondhand article dealer mall or flea market is valid for 2 years, from May 1 of an odd-numbered year until April 30 of the next odd-numbered year.

(8) Pawnbroker and Dealer Requirements.

(a) Identification. No pawnbroker, secondhand article dealer or secondhand jewelry dealer may engage in a transaction of purchase, receipt or exchange of any secondhand article or secondhand jewelry from a customer without first securing adequate identification from the customer. At the time of the transaction, the

pawnbroker, secondhand article dealer or secondhand jewelry dealer shall require the customer to present one of the following types of identification:

1. A county identification card.
2. A state identification card.
3. A valid Wisconsin motor vehicle operator's license.
4. A valid motor vehicle protector's license, containing a picture, issued by another state.
5. A military identification card.
6. A valid passport.
7. An alien registration card.
8. A senior citizen's identification card containing a photograph.
9. Any identification document issued by a state or federal government, whether or not containing a picture, if the pawnbroker, secondhand article dealer or secondhand jewelry dealer obtains a clear imprint of the customer's right index finger.

(b) Transaction with minors.

1. Except as provided in subdivision 2, no pawnbroker, secondhand article dealer or secondhand jewelry dealer may engage in a transaction of purchase, receipt or exchange of any secondhand article or secondhand jewelry from any minor.

2. A pawnbroker, secondhand article dealer or secondhand jewelry dealer may engage in a transaction described under subdivision 1 if the minor is accompanied by his or her parent or guardian at the time of the transaction or if the minor provides the pawnbroker, secondhand article dealer or secondhand jewelry dealer with the parent's or guardian's written consent to engage in the particular transaction.

(c) Records.

1. Except as provided for in subdivision 2, for each transaction of purchase, receipt or exchange of any secondhand article or secondhand jewelry from a customer, a pawnbroker, secondhand article dealer or secondhand jewelry

dealer shall require the customer to complete and sign, in ink, the appropriate form provided under subparagraph (12). No entry on such a form may be erased, mutilated or changed. The pawnbroker, secondhand article dealer or secondhand jewelry dealer shall retain an original and a duplicate of each form for not less than one year after the date of the transaction except as provided in paragraph (e), and during that period shall make the duplicate available to any law enforcement officer for inspection at any reasonable time.

2. For every secondhand article purchased, received or exchanged by a secondhand article dealer from a customer off the secondhand article dealer's premises or consigned to the secondhand article dealer for sale on the secondhand dealer's premises, the secondhand article dealer shall keep a written inventory. In this inventory the secondhand article dealer shall record the name and address of each customer, the date, time and place of the transaction and a detailed description of the article which is the subject of the transaction. The customer shall sign his or her name on a declaration of ownership of the secondhand article identified in the inventory and shall state that he or she owns the secondhand article. The secondhand article dealer shall retain an original and a duplicate of each entry and declaration of ownership relating to the purchase, receipt or exchange of any secondhand article for not less than one year after the date of the transaction except as provided in paragraph (e), and shall make duplicate of the inventory and declarations of ownership available to any law enforcement officer for inspection at any reasonable time.

(d) Holding period.

1. Except as provided in subdivision 5, any secondhand article or secondhand jewelry purchased or received by a pawnbroker shall be kept on the pawnbroker's premises or other place for safekeeping for not less than 30 days after the date of purchase or receipt, unless the person is known by the pawnbroker to be the lawful owner of the secondhand article or secondhand jewelry recovers it.

2. Except as provided in subdivision 5, any secondhand article purchased or received by a secondhand article dealer shall be kept on the secondhand article dealer's premises or other place for safekeeping for not less than 10 days after the date of purchase or receipt.

3. Except as provided in subdivision 5, any secondhand jewelry purchased or received by a secondhand jewelry dealer shall be kept on the secondhand jewelry dealer's premises or other place for safekeeping for not less than 15 days after the date of purchase or receipt.

4. During the period set forth in subdivisions 1, 2 or 3 the secondhand article or secondhand jewelry shall be held separate and apart and may not be altered in any manner. The pawnbroker, secondhand article dealer or secondhand jewelry dealer shall permit any law enforcement officer to inspect the secondhand article or secondhand jewelry during this period. Within 24 hours after a written request of a law enforcement officer during this period, a pawnbroker, secondhand article dealer or secondhand jewelry dealer shall make available for inspection any secondhand articles or secondhand jewelry which is kept off premises for safekeeping. Any law enforcement officer who has reason to believe any secondhand article or secondhand jewelry was not sold or exchanged by the lawful owner may direct a pawnbroker, secondhand article dealer or secondhand jewelry dealer to hold that secondhand article or secondhand jewelry for a reasonable length of time which the law enforcement officer considers necessary to identify it.

5. Subdivisions 1 to 4 do not apply to any of the following:

a. A coin of the United States, any gold or silver coin or gold or silver bullion.

b. A secondhand article or secondhand jewelry considered to a pawnbroker, secondhand article dealer or secondhand jewelry dealer.

(e) Report to law enforcement agency. Within 24 hours after purchasing or receiving a secondhand article or secondhand jewelry, a pawnbroker, secondhand article dealer or secondhand jewelry dealer shall make available for inspection by a law enforcement officer, the original form completed under paragraph (c)1 of the inventory under paragraph (c)2, which is appropriate. Notwithstanding Wis. Stat. Sec. 19.35(1), a law enforcement agency receiving the original form or inventory or a declaration of ownership may disclose it only to another law enforcement agency.

(f) Exception for customer return or exchange. Nothing in this subsection applies to the return or exchange, from a customer to a secondhand article dealer or secondhand jewelry dealer, of any secondhand article or secondhand jewelry purchased from the secondhand article dealer or secondhand jewelry dealer.

(9) Secondhand Article Dealer Mall or Flea Market.

(a) The owner of any premises or land upon which 2 or more persons operate as secondhand article dealers may obtain a secondhand article dealer mall or flea market license for the premises or land if the following conditions are met:

1. Each secondhand article dealer occupies a separate sales location

and identified himself or herself to the public as a separate secondhand article dealer.

2. The secondhand article dealer mall or flea market is operated under one name and at one address, and is under the control of the secondhand article dealer mall or flea market license holder.

3. All sales are completed at a central location under the control of the secondhand article dealer mall or flea market license holder, who maintains a record of all sales.

(b) The secondhand articles dealer license holder and each secondhand article dealer operating upon the premises or land shall comply with subsection (8).

(10) License Revocation. The Common Council may revoke any license issued by it under this section for fraud, misrepresentation or false statement contained in the application for a license or for any violation of this section or Wis. Stat. Sections 943.34, 948.62 or 948.63.

(11) Fees. The license fees under this section are:

(a) For a pawnbroker's license, \$210.00.

(b) For a secondhand article dealer's license, \$27.50.

(c) For a secondhand jewelry dealer's license, \$30.00.

(d) For a secondhand article dealer mall or flea market license, \$165.00.

(e) License fees shall be prorated quarterly when licenses are issued one calendar quarter or more, or, in the case of licenses issued under Section (11)(d), one calendar half, after the commencement of the license period. No refunds shall be issued for any license after the fee is paid.

(12) Penalty.

(a) Upon conviction for a first offense under this section, a person shall forfeit not less than \$50 nor more than \$1,000.00.

(b) Upon conviction for a 2nd or subsequent offense under this section, a person shall forfeit not less than \$500.00 nor more than \$2,000.00.

16.09 ADULT-ORIENTED ESTABLISHMENT LICENSE AND REGULATIONS

(1) FINDINGS OF FACT

- (a) The Common Council finds that Adult-Oriented Establishments operating in the City require special licensing by the City in order to protect and preserve the health, safety, and welfare of the patrons of such businesses as well as the citizens of the City.
- (b) Based on a review of studies conducted in Phoenix AZ, Garden Grove CA, Los Angeles CA, Whittier CA, Indianapolis IN, Minneapolis MN, St Paul MN, Cleveland OH, Oklahoma City OK, Amarillo TX, Austin TX, Beaumont TX, Houston TX, Seattle WA, and the findings incorporated in **City of Renton v. Playtime Theaters, Inc.**, 475 U.S. 41 (1986), **Coleman A. Young v. American Min-Theaters, Inc.**, 427 U.S. 50 (1976), the City finds that Adult-Oriented Establishments are frequently used for sexual liaisons of a casual nature and unlawful sexual activities including prostitution.
- (c) It has been documented that entertainers in Adult-Oriented Establishments offer to perform sexual acts for patrons, and that sexual contact occurs between patrons and other employees of Adult-Oriented Establishments.
- (d) There is convincing documented evidence that booths, rooms or cubicles in Adult--Oriented Establishments have been used by patrons for the purpose of engaging in Specified Sexual Activities or in high-risk sexual behavior and configuration of the interior of the premises is an important factor in combating such activities.
- (e) The State of Wisconsin Division of Health has published reports that have been considered by the City relating to the subject of sexually-transmitted diseases and the concern over sexually-transmitted diseases is a legitimate concern of the City in order to protect the health and well-being of its citizens.
- (f) The State of Wisconsin has seen a steady increase in several types of sexually-transmitted diseases since 1986.
- (g) Researchers have found that contracting sexually-transmitted diseases may increase a person's vulnerability to Human Immuno-Deficiency Virus (HIV), the virus that causes AIDS (Acquired Immune Deficiency Syndrome) and some types of cancer.
- (h) AIDS is a sexually-transmitted disease which destroys the body's immune system.
- (i) The State of Wisconsin Division of Health reports that as of December 31, 2004, 5,690 cases of AIDS were reported in the State, including 3,376 that resulted in death

and new cases of HIV infection have been reported in Wisconsin each year.

- (j) The City is concerned with the protection of its minors from exposure to age-inappropriate, sexually explicit materials and offenses.
- (k) Licensing is a legitimate and reasonable means of accountability to ensure that the operators and employees of Adult-Oriented Establishments comply with reasonable regulations and to ensure that operators and employees do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.
- (l) Information relating to pending charges and convictions of the applicants is desired to further the City's interest in controlling the secondary effects of Adult-Oriented Establishments.
- (m) There is convincing documented evidence that Adult-Oriented Establishments, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime and the downgrading of property values.
- (n) The Common Council has reviewed studies of the secondary effects of Adult-Oriented Establishments and has concluded that if unregulated, they present an increased risk of prostitution, high-risk sexual behavior and crime, deleterious effects upon existing businesses and surrounding residential areas, and decreased property values.
- (o) The Common Council desires to minimize and control these adverse effects and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods.
- (p) It is not the intent of this ordinance to suppress any speech activities protected by the First Amendment, but to enact a content-neutral ordinance which addresses the secondary effects of Adult-Oriented Establishments.
- (q) It is not the intent of the Common Council to condone or legitimize the promotion of obscene material, and the Common Council recognizes that the law prohibits the promotion of obscene materials. The Common Council expects and encourages law enforcement officials to enforce anti-obscenity laws against any such illegal activities in the City.
- (r) Restricted hours of operation will allow law enforcement personnel to concentrate on crime prevention during high crime hours and/or low staffing hours by relieving them of enforcement duties relative to prostitution, loitering, and criminal activity

associated with Adult-Oriented Establishments.

- (s) Prohibition of alcohol beverages on the premises will reduce the need for law enforcement resources to respond to alcohol related problems upon the premises, will reduce high-risk sexual activity and will contribute to the reduction of secondary effects of Adult-Oriented Establishments.

(2) PURPOSE AND INTENT.

Based upon the findings stated above, it is the intended purpose of the City to regulate Adult-Oriented Establishments to promote the health, safety, morals, and general welfare of the citizens of the City and to establish reasonable and uniform regulations for the operation thereof so as to minimize secondary effects of these establishments on the community. The provisions of this section have neither the purpose nor intent of imposing a limitation or restriction on the content of any communicative materials, including Adult-Oriented materials protected by the First Amendment to the Constitution of the United States. Similarly, it is not the intent or effect of this section to restrict or deny access by adults to Adult-Oriented materials protected by the First Amendment or to deny access by the distributors and exhibitors of Adult-Oriented entertainment to their intended market. The promotion of obscene materials which is not protected by the First Amendment, is subject to criminal sanctions under the State's penal code.

(3) DEFINITIONS.

The following terms have the meanings indicated:

- (a) "Adult Cabaret" means a nightclub, bar, restaurant, or similar commercial establishment which features:
 - 1. Live performances which are characterized or distinguished by the exposure of "Specified Anatomical Areas" or the removal of articles of clothing; or,
 - 2. Films, motion pictures, video cassettes, video reproductions, slides or other visual representations which are distinguished or characterized by depicting or describing "Specified Sexual Activities" or "Specified Anatomical Areas."
- (b) "Adult Entertainment" means any exhibition of any motion picture, live performance, display or dance of any type, which has as its dominant theme, or is distinguished or characterized by anyone or more of the following:
 - 1. "Specified Sexual Activities";
 - 2. "Specified Anatomical Areas";

3. removal of articles of clothing;
- (c) "Adult Massage Parlor" means a commercial establishment with or without sleeping accommodations which provides the service of massage or body manipulation, including exercise, heat and light treatment of the body, and any form or method of physiotherapy, which also provides its patrons with the opportunity to engage in "Specified Sexual Activities".
 - (d) "Adult-Oriented Establishment" includes: Adult Cabaret, Adult Massage Parlor, Adult Theater, and any commercial establishment presenting Adult Entertainment, whether or not such establishment is operated or maintained for a profit.
 - (e) "Adult Theater" means an enclosed building such as a theater, concert hall, auditorium or other similar commercial establishment which is used for presenting "Adult Entertainment."
 - (f) "Applicant" means the individual or business entity that seeks to secure a license under this section of the City municipal code.
 - (g) "Employee" means any and all Persons, including but not limited to "Operators", "Entertainers", clerks, managers, janitors or other Persons who work in or at, or render any services directly related to the day-to-day operation of an Adult-Oriented Establishment. Employee, as used in this ordinance, specifically excludes independent contractors who are responsible for the improvement or repair of the physical premises or who provide supplies to the establishment, provided that these Persons are not also in the position of providing any other day-to-day services for the Adult-Oriented Establishment.
 - (h) "Entertainer" means any Person who provides entertainment within an Adult-Oriented Establishment whether or not a fee is charged or accepted for the entertainment and whether or not the entertainment is provided by the Person as an Employee of the Adult-Oriented Establishment or as an independent contractor.
 - (i) "Operator" means the Person who is designated on the license application to be the Person in charge of the daily operation of the premises and who is to be the Adult-Oriented Establishment's contact Person for the municipality.
 - (j) "Person" means an individual, proprietorship, corporation, association, partnership, limited liability entity, or other legal entity.
 - (k) "Public Area" includes all areas of an Adult-Oriented Establishment except: a public restroom to the extent it is used for its proper purpose, individual rooms rented in an

Adult Motel, or areas to which patrons have no physical or visual access.

- (l) "Specified Anatomical Areas" means:
1. Less than completely and opaquely covered human genitals, pubic region, buttock or female breasts below a point immediately above the top of the areola; or
 2. Human male genitals in a discernibly turgid state, even if opaquely covered.
- (m) "Specified Sexual Activities" means and includes any of the following, simulated or actual:
1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; .
 2. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochistic abuse, fellatio, cunnilingus, anilingus.
 3. Showing of human genitals in a state of sexual stimulation or arousal.
 4. Excretory functions during a live performance, display or dance of any type.
- (n) "Transfer of Ownership or Control" of an Adult-Oriented Establishment means and includes any of the following:
1. the sale, lease, or sublease of the business;
 2. the transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or other means; or
 3. the establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of the law upon the death of the Person possessing the ownership or control.
- (o) " Common Council" means the Common Council for the City of *****, Grant County, Wisconsin.
- (p) "Youth-facility" means any facility where minors gather for educational or recreational activities including but not limited to playgrounds, swimming pools, libraries, licensed child-care facilities, or youth clubs.

(4) LICENSING

(a) LICENSES REQUIRED.

1. License Required for All Adult-Oriented Establishments.
From and after the effective date of this section, no Adult-Oriented Establishment shall be operated or maintained in the City without first obtaining a license to operate issued by the City. A license may be issued only for one Adult-Oriented Establishment located at a fixed and certain place. Any Person desiring to operate more than one Adult-Oriented Establishment must have a license for each.
2. License Required for All Employees of Adult-Oriented Establishments.
In addition to the license required by the establishment, all Employees of an Adult-Oriented Establishment must also be licensed.
3. Change of Name Form.
Any licensed Adult-Oriented Establishment which desires to change its name from that as listed on the original license application must file a change of name form with the Clerk and pay a \$10.00 fee at least 30 days prior to effectuating the name change.
4. Effect of Other Licenses.
The fact that a Person possesses any other valid license or permit required by law, does not exempt that Person from the requirement of obtaining an Adult-Oriented Establishment license under this Section.
5. Non-transferability of Licenses.
No license or interest in a license may be transferred to any Person. Any change in location for an Adult-Oriented Establishment shall require a new license application for that location.

(b) LICENSE APPLICATION PROCEDURE FOR ADULT-ORIENTED ESTABLISHMENTS

1. Any Person desiring to secure an Adult-Oriented Establishment license shall file an application together with two additional copies of the application with the Clerk.
2. The application shall be on a form provided by the Clerk.
3. The following information shall be required of each Applicant, and must be provided under oath or affirmation:

- a. Name, including any aliases, date of birth, address, and phone number.
- b. If the Applicant is a corporation, partnership, limited liability corporation or limited liability partnership, the application shall include the name of the business entity; the date of incorporation, registration or organization; the state in which the entity was incorporated, registered or organized; the name and address of the registered agent where applicable; the names and addresses of all officers and directors; operating or managing partners or general partners; members or managers, whichever is applicable for the particular form of business entity.
- c. If the Applicant is an individual, written proof that the Applicant is at least 18 years of age and two copies of a recent photo.
- d. If the applicant is a business entity, a statement that no officer, director, partner, general partner, owner or manager is less than 18 years of age.
- e. Name, address and phone number of the Adult-Oriented Establishment for which a license is being secured.
- f. Name and address of any other current or past Adult-Oriented Establishments operated by the Applicant whether in this State or any other State or District within the United States.
- g. For any current Adult-Oriented Establishments operated by the Applicant, the Applicant shall describe the status of any required license for the establishment.
- h. Nature and date of offense if the Applicant has charges pending or has been convicted of violating any of the terms of this ordinance.
- i. Nature and date of offense if the Applicant has charges pending or has been convicted of any of the following crimes in Wisconsin:
 - Prostitution (§ 944.30, Stats.).
 - Patronizing Prostitutes (§ 944.31, Stats.).
 - Soliciting Prostitutes (§ 944.32, Stats.).
 - Pandering (§ 944.33, Stats.).
 - Keeping a Place of Prostitution (§ 944.34, Stats.)

Sexual Assault (§940.225, Stats.)
Sexual Gratification (§ 944.17, Stats.).
Lewd and Lascivious Behavior (§ 944.20, Stats.).
Obscene Material or Performance (§ 944.21, Stats.).
Sexual Assault of a Child (§ 948.02, Stats.).
Engaging in repeated acts of sexual assault of the same child. (§ 948.025, Stats.)
Sexual Exploitation of a Child (§ 948.05, Stats.).
Causing a Child to view or listen to Sexual Activity. (§ 948.055, Stats.).
Incest with a child. (§ 948.06, Stats.) .
Child Enticement (§ 948.07, Stats.)
Soliciting a Child for Prostitution (§ 948.08, Stats.)
Exposing a child to harmful material (§ 948.11, Stats.)
Possession of Child Pornography (§ 948.12, Stats.)
Child Sex Offender Working with Children (§ 948.13, Stats.).

The statute numbers listed above are for reference purposes only. In the event one or more of the crimes listed above are renumbered or categorized differently by an act of the legislature, the Applicant shall list those crimes for which the Applicant has been convicted that are similar in nature to those listed above.

- j. Nature and date of offense if the Applicant has charges pending or has been convicted of an offense under a statute analogous to those listed in i., above, in a state other than Wisconsin, or under an analogous ordinance of another municipal entity.
- k. Name, address and phone number of an individual who is responsible for the day-to-day operation of the establishment, who will be deemed the Operator for purposes of this section, and who will be the contact Person for the municipality.
- l. A statement that the Applicant is familiar and in compliance with the provisions of this section of the City's municipal code.
- m. When the Applicant is a business entity the information requested of the Applicant shall include the information required in this section for each of the officers and directors, partners and general partners, or other owners, and managers of the business entity applying for the license. This provision shall not apply to any owner of any kind who hold an ownership interest of less than 10.0 percent.

4. Each application shall be accompanied by:
 - a. A building plan which meets all the requirements of this Section. Each application shall be accompanied by a sketch or diagram showing the floor plan of the interior of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but must be drawn to a 1/4 inch scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
 - b. A written plan of operation which meets all the requirements of this Section.
 - c. A written site plan which meets all the requirements of this Section and the City's Zoning Code.
5. Each application shall be signed by the Applicant.
6. Each application shall be accompanied by payment of the license fee of \$300.00. Filing of the application does not occur until this fee has been paid.
7. The Clerk shall date the filing of the application on the face of the application.
8. Upon filing of the application, each Applicant shall place a sign at the proposed business location providing notification of the application. Each sign shall be at least 24 inches by 36 inches in size. The sign shall state "ADULT-ORIENTED ESTABLISHMENT LICENSE APPLICATION PENDING" AND "APPLICATION FILED ON (fill in the date)." The letters on the sign shall be no less than 1 and 1/2 inches high by 2 inches wide. The sign must be placed in a conspicuous location so that it is clearly visible to all passers by whether on the public road, highway, sidewalk or parking lot.
9. Upon receipt of the application, the Clerk shall immediately distribute a copy of the application to the Building Inspector, the Zoning Administrator, the Common Council and an agency of the Common Council's choosing that conducts background checks.
10. The agency conducting the background check shall notify the Common Council in writing of any information bearing on the Applicant's qualifications, within 30 business days of the filing of the application.
11. The Building Inspector shall notify the Common Council in writing as to

whether or not the Applicant's building plan complies with this Section within 30 business days of the filing of the application.

12. The Zoning Administrator shall notify the Common Council in writing as to whether or not the Applicant's site plan and plan of operation comply with this Section within 30 business days of the filing of the application.
13. The Common Council shall within 60 days of the filing of the application with the Clerk, either grant the license or deny the application after reviewing the application for compliance with the licensing standards found in this ordinance. If the Common Council fails to act upon the license application within 60 days of the filing of the application with the Clerk, then the license shall be deemed granted.
14. If the license is granted by the Common Council, then the Clerk shall issue the license on the next business day.
15. If the Common Council decides to deny the application for a license, the Common Council shall immediately notify the Applicant in writing of the reasons for denial. Such notice shall be sent to the Applicant within 5 days of the decision by certified mail, return receipt requested.
16. Any Applicant aggrieved by such a decision of the Common Council, shall be entitled to immediately appeal the Common Council's decision in circuit court. Such an appeal must be made within 30 days of the date of the written decision by the Common Council. The City explicitly elects not to be governed by Chapter 68, Wisconsin Statutes, and to provide the review procedures described in this Section.
17. Each license issued for an Adult-Oriented Establishment shall state on its face the name of the licensee, the name of the establishment, the street address of the establishment, the date of issue of the license and its expiration date.

(c) **LICENSE PROCEDURES FOR EMPLOYEES IN ADULT-ORIENTED ESTABLISHMENTS.**

1. Any individual desiring to secure an Employee license shall file an application together with two additional copies of the application with the Clerk.
2. The application shall be on a form provided by the Clerk.

3. The following information shall be required of each Applicant, and must be provided under oath or affirmation:

- a. Name, including any aliases, date of birth and address. Pursuant to Sec. 19.35(1)(a)2.a., Wisconsin Statutes, the name and address of any entertainer shall be considered as exempt from disclosure under the public records law of the State of Wisconsin because of potential danger to the life and safety of such individuals from such disclosure.
- b. Written proof that the individual is at least 18 years of age and two copies of a recent photo.
- c. Nature and date of offense and date if the Applicant has charges pending or has been convicted of any violations of any of the terms of this ordinance.
- d. Nature and date of offense if the Applicant has charges pending or has been convicted of any of the following crimes in Wisconsin:

Prostitution (§ 944.30, Stats.).

Patronizing Prostitutes (§ 944.31, Stats.).

Soliciting Prostitutes (§ 944.32, Stats.).

Pandering (§ 944.33, Stats.).

Keeping a Place of Prostitution (§ 944.34, Stats.).

Sexual Assault (§940.225, Stats.)

Sexual Gratification (§ 944.17, Stats.).

Lewd and Lascivious Behavior (§ 944.20, Stats.).

Obscene Material or Performance (§ 944.21, Stats.).

Sexual Assault of a Child (§ 948.02, Stats.).

Engaging in repeated acts of sexual assault of the same child. (§ 948.025, Stats.)

Sexual Exploitation of a Child (§ 948.05, Stats.).

Child Enticement (§ 948.07, Stats.)

Soliciting a Child for Prostitution (§ 948.08, Stats.).

Causing a Child to view or listen to Sexual Activity. (§ 948.055, Stats.).

Incest with a child. (§ 948.06, Stats.)

Exposing a child to harmful material (§ 948.11, Stats.)

Possession of Child Pornography (§ 948.12, Stats.)

Child Sex Offender Working with Children (§ 948.13, Stats.)

The statute numbers listed above are for reference purposes only. In the event one or more of the crimes listed above are renumbered or

categorized differently by an act of the legislature, the Applicant shall list those crimes for which the Applicant has been convicted that are similar in nature to those listed above.

- e. Nature and date of offense if the Applicant has charges pending or has been convicted of an offense under a statute analogous to those listed in 4., above, in a state other than Wisconsin, or under an analogous ordinance of another municipal entity.
 - f. A statement that the Applicant is familiar with the provisions of this Section and is in compliance with them.
 - g. A list of other similar or analogous Adult Entertainer or Employee licenses issued by any other municipalities, the name and state of the municipality and the status of the license.
4. Each application shall be signed by the Applicant.
 5. Each application shall be accompanied by payment of the license fee of \$50.00. Filing of the application does not occur until this fee has been paid.
 6. The Clerk shall date the filing of the application upon the face of the application.
 7. Upon receipt of the application, the Clerk shall immediately distribute a copy of the application to an agency of the Common Council's choosing that conducts background checks and the Common Council.
 8. The agency conducting the background check shall notify the Common Council in writing of any information bearing on the Applicant's qualifications as required herein, within 30 business days of the filing of the application.
 9. The Common Council shall within 60 days of the filing of the application with the Clerk, either issue the license or deny the application after reviewing the application for compliance with the licensing standards found in this ordinance. If the Common Council fails to act upon the license application within 60 days of the filing of the application with the Clerk, then the license shall be deemed granted.
 10. If the license is granted by the Common Council, then the Clerk shall issue the license on the next business day.

11. If the Common Council decides to deny the application for a license, the Common Council shall notify the Applicant in writing of the reasons for denial. Such notice shall be sent to the Applicant within 5 days of the decision by certified mail, return receipt requested.
12. Any Applicant aggrieved by such a decision of the Common Council shall be entitled to immediately appeal the Common Council's decision in circuit court. Such an appeal must be made within 30 days of the receipt by the Applicant of the written decision of the Common Council. The City explicitly elects not to be governed by Chapter 68, Wisconsin Statutes, and to provide the review procedures described in this Section.

(d) PROCEDURES FOR ALTERATIONS OF LICENSED PREMISES

Following the granting of a license any licensee who wishes to alter any aspect of the licensed premises which was required to be described in the building plan, site plan or plan of operations required under this Section, shall be required to apply for a new license.

(e) LICENSING STANDARDS FOR INITIAL LICENSES

The Common Council shall grant an initial license to an Applicant unless it finds one or more of the following to be true:

1. The Applicant is less than 18 years of age.
2. The Applicant has charges pending or has been convicted of violating a provision of this Section or an analogous ordinance of another municipality within the 5 years immediately preceding the date of application.
3. The Applicant has charges pending or has been convicted of a crime specified in Sections 4(b)3(i) or (4)(c)(3(d)); and if convicted, for which:
 - a. less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is a misdemeanor offense.
 - b. less than five years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is a felony offense;
 - c. less than five years have elapsed since the date of conviction or the

date of release from confinement imposed for the conviction, whichever is the later date, if the convictions are for two or more misdemeanor offenses, or combination of misdemeanor offenses, occurring within any 24 month period.

The fact that an appeal has been taken from any of the above-mentioned convictions shall have no effect.

4. The Applicant provides false information on the application.
5. The Applicant fails to provide information, to post the required notice, or to pay any fee required by this Section.
6. The Adult-Oriented Establishment does not submit plans which meet the requirements of Section (4)(b) 4.

(f) LICENSE EXPIRATION AND RENEWAL

1. Transfer of Ownership or Control of an Adult-Oriented Establishment shall result in automatic expiration of the existing license. Upon transfer of Ownership or Control, the procedures for a new license application must be followed. In order to ensure continuous operation, such procedures may also be commenced by a new Applicant prior to the expiration of the prior license.
2. Every license issued pursuant to this Section will terminate upon the expiration of one year from the date of issuance unless sooner revoked. Any licensee desiring to renew an initial license shall make application to the Clerk. The application procedures governing new licenses shall be followed by an Applicant for a renewal license except for those found in Section (4)(b) 8, 12, 13, 14, and 15 for Adult-Oriented Establishment licenses, and Section (4)(c) 9, 10, 11, and 12 for Employee licenses. The application fee for a renewal license shall be \$300.00 for an Adult-Oriented Establishment license and \$50.00 for an Employee license.
3. Any licensee desiring to renew an initial license shall file the application for renewal no later than 60 days before the license -expires: Any licensee who fails to apply for a renewal license at least 60 days before the license expires shall pay the same fee as if the licensee were applying for an initial license.
4. An existing license shall be allowed to continue until such time as the Common Council acts upon the renewal license application. If the Common Council fails to act upon the license application within 60 days of the filing of the application with the Clerk, then the license shall be deemed granted.

5. The Common Council will not expedite the renewal procedure to ensure that a license will not expire when the expiration of the license is due to the licensee's untimely filing of a renewal application. Upon expiration of a license under these circumstances, the licensee is prohibited from operating or serving as an employee until the new license is granted.
6. A license may not be renewed if the Common Council, following the procedures found in this Section, finds that a violation of this Section has occurred or that the applicant is not qualified to hold the license.
7. If the license is granted by the Common Council, then the Clerk shall issue the license on the next business day.

(5) OPERATION OF ADULT-ORIENTED ESTABLISHMENTS

- (a) No Adult-Oriented Establishment is permitted to operate between the hours of 2 a.m. and 8 a.m. Further, no Adult-Oriented Establishment is permitted to operate between the hours of 8 a.m. and midnight on any Sunday or legal holiday as defined in §995.20, Wis. Stats.
- (b) No Operator or Employee of an Adult-Oriented Establishment shall permit to be performed, offer to perform, perform or allow patrons to perform any Specified Sexual Activity in the establishment or on the site.
- (c) No Operator or Employee of an Adult-Oriented Establishment shall allow any minor to enter into, loiter around or to frequent an Adult-Oriented Establishment or to view Adult Entertainment.
- (d) The Operator shall maintain the premises in a clean and sanitary manner at all times.
- (e) The Operator shall maintain at least 10 foot candles of illumination in the Public Areas of the establishment with the following exceptions:
 1. in a booth, room, or cubicle, if a lesser level of illumination is necessary to enable a patron to view the Adult Entertainment but at no time shall there be less than .01 foot candle of illumination as measured 30" from the floor;
 2. in an aisle adjacent to a booth, room, or cubicle, if a lesser amount of illumination is necessary to allow the occupant to view the Adult Entertainment, but at no time shall there be less than one and 1/2 foot candle of illumination as measured 30" from the floor.

3. Adult Theaters must maintain 5 foot candles of illumination in the auditorium during intermission and no less than .01 foot candles during a picture as provided for in Wis. Adm. Code Comm. §73.07(6).
- (f) All Employees while engaged in the display or exposure of any Specified Anatomical Area, shall maintain a three-foot distance from any patron or other Employee.
 - (g) No restroom shall be designed, operated or maintained so that a patron can view Adult Entertainment therein.
 - (h) All performances in an Adult Cabaret shall be conducted upon a stage at least eighteen inches (18") above the immediate floor level and removed at least six feet (6') from the nearest Employee or patron.
 - (i) The selling, serving, possession, or consumption of alcohol beverages is strictly prohibited at all times in all Adult-Oriented Establishments.
 - (j) No Employee or Operator shall knowingly work in or about, or knowingly perform any service directly related to the operation of any unlicensed Adult-Oriented Establishment, in the City of Fennimore.
 - (k) All Employees shall carry their license upon their person at all times while working in the Adult-Oriented Establishment and shall produce said license upon demand for inspection by any law enforcement authority. Entertainers are exempt from carrying their license upon their person while providing entertainment, but shall be readily able to produce said license upon demand for inspection by any law enforcement authority.
 - (l) The license for the Adult-Oriented Establishment shall be displayed in a conspicuous public place in the Adult-Oriented Establishment.
 - (m) No Employee, Operator, or owner may refuse law enforcement officials entry in to an Adult-Oriented Establishment for purposes of inspecting the Adult-Oriented Establishment for compliance with these operational standards during business hours, or at other times at a reasonable hour, with reasonable notice.
 - (n) The Operator shall be responsible for compliance with the provisions of this section by the Adult-Oriented Establishment, its Employees and patrons.
 - (o) Every act or omission by any Employee constituting a violation of the provisions of this section shall be deemed the act or omission of the Operator if such act or omission occurs, either with the authorization, knowledge or approval of the

Operator, or as a result of the Operator's negligent failure to supervise the Employee's conduct, and the Operator shall be accountable for such act or omission in the same manner as if Operator committed the act or caused the omission.

(6) DESIGN AND LAYOUT

(a) EXTERNAL VISIBILITY

At no time should any Adult Entertainment inside the premises be visible to any persons who are outside the premises.

(b) BOOTHS

Any Adult-Oriented Establishment having available for patrons any booth, room or cubicle for the private viewing of Adult Entertainment must comply with the following requirements:

1. Access. Each booth, room, or cubicle shall be totally accessible to and from aisles and Public Areas of the Adult-Oriented Establishment and shall be unobstructed by any door, lock or other control type devices.
2. Construction. Every booth, room or cubicle shall meet the following construction requirements:
 - a. Each booth, room or cubicle shall be separated from adjacent booths, rooms or cubicles and any non-Public Areas by a wall.
 - b. All walls shall be solid and without any openings, extended from the floor to a height of not less than 6' and be light colored.
 - c. Have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying the booth.
 - d. Booths must be separated at least twelve (12) inches from the exterior walls of any other viewing booths by open space.
3. Visibility. The interior of the booth, room or cubicle shall not be blocked or obscured by doors, curtains, partitions, drapes or any other obstruction whatsoever.
4. Lighting. Lighting for booth, room or cubicle shall comply with the provisions of Section (5)(e) of this ordinance.
5. Occupants. Only one individual shall be permitted to occupy a booth, room

or cubicle at any time. No occupant of the booth, room or cubicle, shall be permitted to engage in any Specified Sexual Activity, cause any bodily discharge or litter while in the booth. No individual shall be permitted to damage or deface any portion of the booth.

6. Exception. This subsection does not apply to the individual rooms located in Adult Motels.

(7) EXCLUSIONS

All private and public schools as defined in Ch. 115, Wis. Stats., located within the City are exempt from obtaining a license hereunder when instructing pupils in sex education as part of its curriculum.

(8) ENFORCEMENT

(a) LICENSE NON-RENEWAL, SUSPENSION, OR REVOCATION'

1. CAUSES FOR LICENSE NON-RENEWAL, SUSPENSION OR REVOCATION :

The Common Council may refuse to renew, suspend or revoke a license for any violations of this Section or if the applicant is not qualified to hold the license.

2. LICENSE NON-RENEWAL, SUSPENSION AND REVOCATION PROCEDURES.

a. In order to commence the procedure for a license non-renewal, suspension or revocation, the City shall notify the licensee in writing by certified mail, return receipt requested, of the alleged violation or cause and the intent of the City to seek a non-renewal, suspension or revocation of the license.

b. The licensee shall be entitled to a public hearing before the Common Council regarding the license non-renewal, suspension or revocation, upon written request to the City Clerk within 10 days of receipt of the notification required in sub. a.

c. Any public hearing requested pursuant to sub. b., shall take place within 10 days of the filing of such written request, unless the time limits are waived by both parties.

d. At the hearing both the City and the aggrieved party may be

represented by an attorney, present evidence, call and examine witnesses, cross-examine witnesses of the other party, and make opening and closing statements. Such witnesses shall be sworn. The Mayor shall be the presiding officer at the hearing.

- e. Attorneys may issue subpoenas to compel attendance of witnesses or the production of evidence. Subpoenas issued must be in substantially the same form as provide in §805.07(4), Wis. Stats., and must be served in the manner provided in §805.07(5), Wis. Stats. Copies of the subpoenas must be served on the opposing party.
- f. The Common Council shall cause the proceedings to be recorded by a stenographer, the expense thereof to be paid by the City. Costs for copies of any transcripts or transcription of a recording shall be paid by the party requesting the transcript or transcription. All exhibits shall be marked and preserved.
- g. Within 10 days of the completion of any hearing the Common Council shall determine if cause for non-renewal, suspension or revocation exists. If no public hearing is requested, the Common Council shall make a determination within 20 days of the notification date.
- h. The Common Council shall issue its determination in writing and provide it within 5 days to the licensee by certified mail, return receipt requested.
- i. If a license period expires while a non-renewal, suspension or revocation procedure is pending, then the non-renewal, suspension or revocation of any license shall be stayed pending the issuance of a determination by the Common Council. The non-renewal, suspension or revocation of a license shall become effective thirty days following the issuance of a decision by the Common Council, if judicial review is not commenced as provided in this Section.
- j. If judicial review of such determination by the Common Council is timely commenced, then license non-renewal, suspension or revocation shall not become effective until judgment is entered.
- k. Any Person aggrieved by such a decision of the Common Council shall be entitled to immediately appeal the Common Council's decision in circuit court. Such an appeal must be made within 30 days of the licensee's receipt of the written decision by the Common

Council. The City explicitly elects not to be governed by Chapter 68, Wisconsin Statutes, and to provide the review procedures described in this Section.

1. Any Person whose license is non-renewed, suspended or revoked shall not be eligible to receive a license for a period of five years from the effective date of the suspension or revocation.

(b) VIOLATIONS

1. PENALTIES

Any Person who violates this Section will be subject to a monetary forfeiture in the amount of \$500.00 for each violation. Each day that a violation exists shall constitute a separate violation and be punishable as such.

2. INJUNCTION

Compliance with the provisions of this Section may also be enforced by an injunction properly issued by a court of competent jurisdiction upon the request of the City.

3. NON-EXCLUSIVITY

The imposition of any penalty under this Section or the seeking of an injunction shall not impair the right of the City to seek a non-renewal, suspension or revocation of a license as provided in this Section.