

11.01 REGULATION OF BUSINESSES DEALING IN THE SALE AND DISPENSING OF INTOXICATING LIQUOR AND/OR FERMENTED MALT BEVERAGES. (Rep. & Recr. 12-08)

(1) STATE STATUTES ADOPTED.

The current and future provisions of Chapter 125 of the Wisconsin Statutes, defining and regulating the types, sale, procurement, dispensing, consumption and transfer of alcohol beverages, including provisions relating to the penalty to be imposed or the punishment for violation of such statutes, are adopted and made part of this section by reference. A violation of any such provision shall constitute a violation of this section. Any future amendments, revisions, modifications or additions of the statutes incorporated herein, are intended to be made part of this Ordinance in order to secure uniform statewide regulations of alcohol beverages in this State.

(2) DEFINITIONS.

All definitions as set forth in ss125.02 of Wisconsin statutes plus the following:

(a) Licensed Premise/Establishment

A building or a part of a building and accompanying land parcel on which the owner or lessee has obtained permission from the City to conduct a permanent or temporary business to sell intoxicating liquor and fermented malt beverages for consumption on or off the premises.

(b) Business Plan of Operation (BPO)

A written 'plan' prepared by a business operator (licensee/seller) on forms provided by the City Clerk setting forth the location, type and scope of the business operation.

(c) Licensee/Seller

A person who has obtained a license to operate a licensed business/establishment selling intoxicating liquor and fermented malt beverages.

(d) Operator

A person holding a license to operate a licensed premise selling intoxicating liquor and/or fermented malt beverages. (See (c), above)

(e) Sellers Permit

A permit issued to and that must be held by any person who intends to sell goods and services within the state as set forth in ss77.52 of Wisconsin statutes, including the operator of a licensed premise to sell intoxicating liquor and fermented malt beverages.

(3) BASIC REQUIREMENTS

(a) Approved Business Plan of Operation

No person on any licensed premise, as defined in this Ordinance, shall conduct any transactions or use the premises in any way regulated by this Ordinance unless a Licensee has filed a Business Plan of Operation (BPO) with the City Planner and has received approval by the City Planner and Zoning Administrator of such BPO. The BPO shall be specific in graphic delineation of what area(s) of the premises shall be licensed for the sale and/or consumption of alcoholic beverages. The City Planner or Zoning Administrator may request that the BPO be reviewed and approved by the City Plan Commission. Any violation of an approved BPO is grounds for suspension or revocation of any license or permit issued under this Chapter.

(b) Outdoor Sales and/or Consumption

Licensees who wish to sell or allow consumption of alcoholic beverages outside a structure or building must include with their application a site plan, drawn to scale, showing the areas of the site to be included in the license. **(See 11.02, below).**

(c) Seller's Permit

No person on any licensed premise, as defined in this Ordinance, shall conduct any transactions regulated under this section unless a licensee holds and maintains a valid Sellers Permit as required under ss77.52 of Wisconsin statutes, issued to the premise and licensee described in the license during the period of licensing. Any violation is grounds for suspension or revocation of any license or permit issued under this Chapter.

(4) APPLICATIONS

A written application for any license or permit by the provisions of this Ordinance shall be on the form(s) provided by the City Clerk. (Also see (3), above)

(a) Content

All applications other than operator's licenses shall contain all the information required under ss125.04(3) of Wisconsin statutes, and any other information required by the City Clerk.

Applications which include outdoor premises shall include a site plan drawn to scale showing the outdoor areas of the site to be included in the license. Operator's license applications shall be on a forms provided by the City Clerk containing all information deemed necessary, including but not limited to name, residence, age, plus a written request of the holder of the alcohol beverage license hiring the applicant.

(b) Filing of Applications

All applications for licenses and permits to sell alcohol beverages shall be filed with the City Clerk of the City of Pewaukee as required by Wisconsin statutes. Operator's licenses and licenses issued under ss125.26(6) of Wisconsin statutes, for a picnic or other gathering lasting less than four (4) days must be filed with the City Clerk at least 30 days prior to granting of the license or permit by the City Common Council.

(5) ISSUANCE

Licenses and permits may be issued by the City Clerk under the authority of the City Common Council after payment of the appropriate fees and satisfaction of all conditions and subject to all City Codes and Ordinances, which when so issued shall permit the holder to sell, deal or traffic in alcohol beverages as provided in Chapter 125 of Wisconsin statutes.

(6) FEES

(a) Amount of Fees

Fees for the above-noted licenses and permits shall be in such amount as may be established by the City Common Council from time to time by separate resolution.

(b) Fee to be Submitted with Application

Any applicable publication fee shall be submitted with the license or permit application as may be established by the City Common Council from time to time by separate resolution.

(c) Refund of Fees

The fees for licenses or permits which are not granted shall be refunded after deducting the application fee and all actual publication and investigation costs.

(d) Prorating of Fees (Rep. & Rec. 06-17)

Fees for partial licensing years shall be prorated when required by statute and may be prorated at the discretion of the Common Council in other instances. In all cases when an alcohol beverage license is issued for a partial year, a minimum fee shall be as established from time to time by resolution of the Common Council and all actual publication fees and investigation fees must be paid.

(e) No Refunds After Issuance

Once any license or permit is issued, no return of any payment shall be made whether or not the license or permit is used for the entire year.

(7) INVESTIGATION AND REVIEW.

Upon receipt of a license application under the provisions of this Ordinance, the City Clerk shall forward a copy of the application to the appropriate persons to conduct an investigation of the applicant(s) and proposed business as set forth below.

(a) Inspection of Premises and Personnel

Authorized employees within the City of Pewaukee Law Enforcement Department, Fire Department, Planning Department and Building Services Department and the Waukesha County Health Department, may conduct an investigation and inspection of the premises mentioned in the applications, to determine if the premises comply with all applicable regulations, ordinances and laws. The City Clerk's office shall investigate all persons included in the application to determine the suitability and character of the applicants. (Rep. & Recr. 09-21)

(b) Operator's License Applicants

The City Clerk or designee shall conduct an investigation of all applicants to determine the suitability and character of the applicant. (Rep. & Recr. 09-21)

(c) Reports

Upon completion of all investigations, reports shall be submitted in electronic or written form to the City Clerk who shall then forward the application to the City Common Council for action.

(d) Review.

The City Common Council may refer any and all licenses to the appropriate commission or committee for review and recommendation prior to action by the City Common Council.

(8) OPERATOR'S LICENSE.

(a) Operator's License

Operator's licenses may be granted to individuals by the City Common Council and thereafter issued by the City Clerk for the purposes of complying with ss125.32(2) and ss125.68(2), Wisconsin statutes, and this Chapter. The fee for said license shall be set by Common Council resolution. All operators licenses issued under this section shall expire on June 30 each year.

(b) Provisional Operator's License

The City Clerk upon authorization by the Mayor, may issue a provisional operator's license to an applicant in case of a bona fide emergency. An emergency shall be caused by such things as sickness, death or disability. The Mayor, before authorizing such issuance, shall determine that the applicant has a satisfactory record, and probably would be issued an operator's license under non-emergency conditions. The license shall be valid for a period of not to exceed 60 days unless sooner revoked by the City Common Council. The fee for said license shall be set by Common Council resolution. The City Common Council may issue a provisional operator's license to a person who is enrolled in a training course pursuant to ss 125.17(6), Wisconsin statutes, and has applied for an operator's license. The fee for said license shall be set by Common Council resolution. All operators licenses issued under this section entitle the licensee to be an operator in any licensed establishment in the City.

(c) Temporary Operator's Licenses

Temporary operator's licenses may be granted to individuals pursuant to ss125.17(4), Wisconsin statutes, by the City Common Council for the purpose of allowing said individuals to dispense and serve alcohol beverages under a license issued under ss125.26(6) or ss125.51(10), Wisconsin statutes, to a non-profit organization. No person may hold more than one license of this kind per

year. Any temporary operator's license issued under this section shall be valid for any period from one day to 14 days, and the period for which it is valid shall be on the license. The fee for said license shall be set by Common Council resolution.

(9) RESTRICTIONS ON GRANTING LICENSES.

(a) Statutory Requirements

Licenses and permits shall be issued only to those persons eligible under Chapter 125 Wisconsin statutes. Licenses and permits granted in error shall be void.

(b) Health and Sanitation Requirements

No retail Class A or Class B alcohol beverage license shall be issued for any premises which does not conform to the sanitary, safety and health requirements of the State of Wisconsin, Department of Commerce pertaining to buildings electrical and plumbing, to the rules and regulations of the State Department of Health and Social Services applicable to restaurants, if the premise is licensed to serve food, and to all such rules and regulations as to building, health and sanitation adopted by the City, the County, the State or the Federal government.

(c) Delinquent Taxes, Assessments, Claims, et al

1. No initial or renewal alcohol beverage license shall be issued for any premises or property for which taxes, assessments, forfeitures, or claims for the City are delinquent and unpaid, or zoning regulations/requirements are not met.
2. No initial or renewal license or permit shall be issued under this Code to any person who is:
 - a. Delinquent in the payment of any taxes, assessments, or other claims owed the City.
 - b. Delinquent in the payment of a forfeiture resulting from the violation of any ordinance of the City.
 - c. Delinquent in the payment of any taxes to the State or County.
 - d. Who has any outstanding warrant or capias from any other municipality, state or federal court.

(10) CONDITIONS OF LICENSE.

(a) After Hours Consumption Prohibited.

Consumption of alcohol beverages by any person, including any employee, on licensed premises during hours when the premises are not open for business is prohibited. (Created 05-12)

(b) Consent to Inspect.

Every applicant obtaining a license thereby consents to the entry of law enforcement officers or other authorized representative of the City or the State at any reasonable time for the purpose of inspection and search, and consents to the removal from said premises all things found in violation of City Ordinances or State Law and consents to the introduction of such things as evidence in any prosecution that may be brought for such offenses. (Rep. & Recr. 09-21)

(c) Safety and Sanitation Requirements.

Each licensed premises shall be maintained and conducted in a sanitary manner and shall be a safe and proper place for the purpose being used. (Also see Waukesha County Health Department regulations).

(d) Orderly Conduct Required.

Every licensed premise shall be conducted in an orderly manner and no disorderly, riotous or indecent conduct shall be allowed.

(e) Gambling Prohibited.

Gambling shall not be permitted on a licensed premise unless authorized by State statute. Slot machines or other devices of chance are prohibited and shall not be kept on the premises, unless

authorized by State statute.

(f) Lewd and Obscene Activity and Performances Prohibited.

No licensee shall advertise, produce, perform or allow any lewd, obscene, pornographic or indecent activity, performance or images of any kind on the premises.

(g) Sale to Intoxicated Persons Prohibited.

No licensee, agent, operator or server shall sell, give, procure or otherwise furnish an alcohol beverage to any person perceived to be intoxicated.

(h) Underage Persons.

No licensee shall employ any underage person to serve, sell, dispense, or give away an alcohol beverage unless authorized by State statute or the Codes of the City. The current and future provisions of ss125.10(2); ss125.07 (4) (a), (b) or (bm); ss125.085(3)(b); and, ss125.09(2) of Wisconsin statutes are adopted and made a part of this section by reference. A violation of any such provision shall constitute a violation of this section. Any future amendments, revisions, modifications or additions of the statutes incorporated herein are intended to be made part of this ordinance in order to secure uniform statewide regulations of alcohol beverages in this state.

(i) Controlled Substance Use Prohibited.

Any licensee, partner, agent, authorized representative or employee who is convicted of the use, possession, delivery or intent to deliver, any controlled substance defined and regulated under Chapter 961, Wisconsin statutes, may be considered grounds for the revocation or suspension of any license provided for in this ordinance.

(j) Regulation of Entertainment and Entertainers.

All entertainers shall be fully clothed in such a manner as to be acceptable in any and all public places. No licensee shall allow any entertainment which makes an appeal to prurient interests.

(k) Solicitation of Drinks Prohibited.

No person shall solicit or be allowed to solicit alcohol beverages on a licensed premise.

(l) Music.

Licensees may have music anywhere within the licensed premise building, whether recorded or live, amplified or not, however, such music should not be audible beyond 50 feet from the building. Music may not be played or projected outside of a building on the premises unless the Licensee has obtained a separate permit under sub-section 11.02 of this code.

(m) Outdoor Entertainment.

No Licensee may permit or provide entertainment such as music, television, games, sports activities and other similar activities outside of an enclosed building unless the Licensee has obtained a separate permit under sub-section 11.02 of this code.

(11) MISCELLANEOUS GENERAL PROVISIONS.

(a) Transfer of Licenses.

1. The transfer of every alcohol beverage license shall be governed by ss125.04(12), Wisconsin statutes.
 2. No transfer of operator's license is permitted.
 3. If the transfer is approved by the City Common Council pursuant to ss125.04(12), all conditions set forth under this Code shall be complied with.
 4. Failure to conform with the terms of license transfer shall be grounds for denial, suspension or revocation of license.
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(b) Non-Use of License

If a license or permit issued under this ordinance is not used within sixty (60) days after its issuance or its usage is discontinued for a period of (60) days or more, such non-use shall be grounds for cancellation, suspension, revocation or non-renewal of the license or permit in accordance with the provisions of this ordinance and Wisconsin statutes.

(c) Non-Renewal of Licenses

Before renewal of any license or permit issued under this ordinance is refused, the licensee or permittee shall be given written notice of any charges or violations or reasons proposed for non-renewal, and shall have an opportunity to be heard before the City Common Council.

(d) Violations by Agents and Employees

A violation of this ordinance by an authorized agent or employee of the licensee shall constitute a violation by the licensee.

(e) Hours of Closing

Closing hours shall be as set by Wisconsin statute.

(f) Local Option – “Class B” License

The City elects to allow “Class B” premises to sell intoxicating liquors in the original packages or containers in multiples not to exceed four (4) liters at any one time, and any amount of wine, for consumption off the licensed premises.

(12) REVOCATION AND SUSPENSION OF LICENSE

(a) License Violation

Whenever the holder of any alcohol beverage license under this Ordinance violates any portion of this ordinance, proceedings for the revocation or suspension of the license may be instituted in the manner and under the provisions established under ss125.12, Wisconsin statutes. In addition, the City Common Council, by its own motion by adoption of a resolution may begin proceedings for the revocation or suspension of such license.

(b) Violation of Ancillary Requirements

Whenever the City Common Council or the City Clerk, as agent thereof, is made aware of an incompatibility in the operation of a licensed premises in relation to its surrounding or nearby environment, or a licensed premises is in violation of any condition established or required at the issuance of the license or of this Code or of the Wisconsin statutes, including all requirements regarding the duty to supervise employees, proceedings for the purpose of revoking and/or establishing new conditions, or continuing the license under previous conditions will be initiated under the same procedures as provided in sub-section (10)(a), above.

(c) Suspension or revocation of operator's licenses granted pursuant to this ordinance shall be governed, as follows:

1. Any committee as established by the City Common Council may revoke or suspend an operator's license following a hearing held by the Committee. Notice shall be transmitted by mail to the licensee not less than ten (10) days prior to the hearing or upon personal service of notice not less than five (5) days prior to the hearing.
 2. Appeal from the decision of the Committee may be made by the licensee upon filing a petition for review by the full Common Council by presenting the petition and paying a fee, as shall be established from time to time by resolution of the Common Council, to the City Clerk. The Common Council shall schedule a hearing not more than (30) days from the date the appeal is filed. (Rep. & Rec. 06-17)
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(d) Revocation

Any license or permit issued under this ordinance may be revoked without further proceedings upon the conviction of the licensee, agent employee or representative thereof, pursuant to Section 125.11, Wis. Stats.

(13) PENALTIES

Any person, firm, corporation or the employee or agent of any licensee under this ordinance or Chapter 125, Wisconsin statutes shall be subject to a penalty as provided in section 25.04 of City Codes and Ordinances.

11.02 OUTDOOR ENTERTAINMENT PERMIT. (Cr. 12-08)

(1) OUTDOOR ENTERTAINMENT

No commercial establishment may provide entertainment such as music, whether recorded or live, amplified or not; television; games or sporting activities, outside an enclosed structure without obtaining one of the following permits from the City Common Council:

(a) Annual Permit: Allows the permittee to provide activities during specified hours outside an enclosed structure. The Common Council may impose restrictions on the permit. The permit period is July 1 through June 30.

(b) Temporary permit: Allows the permittee to provide activities outside an enclosed structure during a specified period approved by the Common Council. Temporary permits are for special, limited occurrences. The Common Council may impose restrictions on the permit.

(2) APPLICATION PROCESS

(a) Application Filing Dates

Applications for annual permits must be submitted to the City Clerk no later than May 1. Applications for temporary permits must be submitted to the City Clerk no less than 75 days before the desired date to provide music or other activity, in order for the permit to be processed.

(b) Permit fees shall be set from time to time by resolution of the Common Council.

(c) Permit applications must be accompanied by a scaled drawing or map showing the location of all speakers or other means of providing music, television, sporting activities; a site plan and a Business Plan of Operation, as defined in §11.01(2)(b), for all outdoor activities; and, the name and address of owners of all properties located within 1,000 feet of the property lines.

(d) The Clerk will mail notice of the Plan Commission meeting at which the application will be reviewed to the owners of all properties located within 1,000 feet of the applicant's property lines at least 15 days prior to the Plan Commission meeting.

(e) The City Common Council, after review and recommendation by the Plan Commission, shall approve, approve with conditions, change or deny any permit application.

(3) VIOLATIONS

Any person providing music, entertainment or activities without a permit or in violation of the terms of the permit issued under this section is guilty of violating this section and is subject to the penalties found in Chapter 25 of the City of Pewaukee Codes.

11.03 AMUSEMENT DEVICES.

1. DEFINITION

The term "amusement device" when used in this Section shall mean a coin-operated machine used for amusement, but shall not include slot machines or any other gambling devices prohibited by state law.

2. LICENSE REQUIRED

No person shall own or have in his possession any amusement device in the City of Pewaukee or maintain or permit the maintenance of any such amusement device on premises owned, leased, or under the control of such person without first obtaining a license therefore in the manner hereinafter provided.

3. APPLICATION

Application therefore shall be made to the City Clerk upon forms furnished by him and shall be sworn to by the applicant before a notary public or other officer authorized to administer oath. The City Clerk, when so authorized so to do by the City Common Council, and after payment of the license fee as hereinafter provided, shall issue the license to the licensee in such form as to permit its secure attachment to the amusement device licensed.

4. LICENSE FEE

License fee shall be as established from time to time by resolution of the Common Council for each amusement device. Licenses shall expire on June 30 following their issuance, and the full license fee shall be charged for a fraction of the year. (Rep. & Rec. 06-17)

5. LICENSES TO BE POSTED

All licenses when issued shall be securely attached to the amusement device licensed and it shall be unlawful to own or possess any such amusement device in the City of Pewaukee without having such a license securely attached thereto.

6. SEIZURE OF UNLICENSED AMUSEMENT DEVICES

The Mayor, any Sheriff or Deputy Sheriff, or special investigator of the City of Pewaukee may seize or cause to be seized any unlicensed amusement device, as required by this Section. The ownership or possession of any unlicensed amusement device is declared to be in violation of this Section.

11.04 MOTELS TOURIST CABINS & ETC.

1. PUBLIC WELFARE

It is hereby declared necessary in the interest of public health, morals and safety that the use of hotels, tourists' rooming houses, cabins or cottages by transients in the City of Pewaukee is regulated.

2. DEFINITIONS

a. "Hotel" means all places wherein sleeping accommodations are offered for pay to transients as a part of a single building of five (5) or more rooms and all places used in connection therewith. The terms motel, tourist court, inn and similar phrases shall be construed as synonymous with hotel.

b. "Tourist cabins" means and includes all other lodging places and tourist cabins and cottages other than hotels as herein defined wherein sleeping accommodations are offered for pay to tourists or transients.

c. Nothing herein contained shall be construed to include private boarding or rooming houses ordinarily conducted as such in accommodating tourists or transients.

3. TOURIST CABINS PROHIBITED

No premises in the City of Pewaukee shall be used for the purpose of operating tourist cabins.

4. HOTELS REGULATED

No hotels as herein defined shall be permitted to be erected or used for habitation of humans within the City of Pewaukee without first obtaining a permit therefore from the City Clerk as hereinafter provided.

5. HOTEL PERMITS

Applications for hotel permits shall be made to the City Clerk upon forms to be provided for that purpose. No permit shall be issued unless such building complies in every respect with the statutes of the State of Wisconsin relating to hotels and restaurants and also complies with the rules and regulations of the Wisconsin State Department of Health and Social Services relating to hotels and tourists rooming houses. A license fee as shall be established from time to time by resolution of the Common Council shall be paid at the time of making the application, said fee to run from July 1 of each year to June 30 of the succeeding year. A fee for any fraction of the license year shall likewise be as established from time to time by resolution of the Common Council. (Rep. & Rec. 06-17)

6. REGULATION BY THE CITY COMMON COUNCIL

a. The owner and operator of any hotel within the City of Pewaukee shall at the time of registration of each guest require the driver of any motor vehicle using such premises to produce for inspection his driver's license. Permanent record shall be kept by the operator of each hotel of the registration of each guest assigned accommodations upon said premises and the license number of each motor vehicle used by such guest in connection with such accommodations.

b. The records of each such hotel relating to registration and use of said premises shall be open for inspection to members of the City Common Council the City Clerk and the City Building Inspector at all reasonable times.

11.05 REGULATION OF DOGS AND DOG KENNELS. (Rep. & Recr. 09-20)

1. ADOPTION OF STATE STATUTES.

Except as otherwise specifically provided in this Code, the current and future statutory provisions of Chapter 174, Wisconsin Statutes describing and defining regulations with respect to dogs, exclusive of any provisions therein relating to penalties to be imposed are adopted and by reference made a part of this Code as if fully set forth herein. Any act required to be performed or prohibited by any current or future statute incorporated herein by reference is required or prohibited by this Section. Any further additions, amendments, revisions or modifications of the current or future statutes incorporated herein are intended to be made part of this Code in order to secure uniform statewide regulation of dogs.

2. TYPES OF LICENSES.

a. Dog license tag.

b. Kennel Licenses.

(1) Commercial Kennel Licenses

(2) Hobby Kennel Licenses

3. DEFINITIONS (SUPPLEMENTAL INFORMATION).

a. "Keeping of Dogs" shall mean the owning, boarding, confinement and general maintenance of dogs on premises on a periodic or full-time basis.

b. "Commercial Kennel Licenses". A written license issued by the City permitting the owner or lessee of specific premises to raise, breed, sell, board, train or groom dogs on such premises for remuneration and other commercial purposes. The raising and selling of three (3) or more litters of dogs from any number of adult dogs per year shall also constitute a commercial kennel.

c. "Hobby Kennel Licenses". A written license issued by the City permitting the owner or lessee of a specific residential or other non-commercial premises to keep more than three (3) dogs six or more months of age on such premises for such private purposes as pets or as a hobby. The occasional raising of not more than two (2) litters of dogs per year on said non-commercial premises and the sale or disposal of said dogs within six months of their birth shall also be considered part of a hobby kennel.

4. LICENSE AND LICENSE TAG REQUIRED.

a. When a Dog License Tag Is Required. Every owner or person having physical care or custody of a dog which is at least six months of age on January 1 of any year, or which reaches six months of age within the license year shall annually, or within 30 days from the date such dog becomes six months of age, and in the manner provided for the payment of personal property taxes, pay a dog license fee and obtain a license tag therefore, which tag must be affixed to the dog in a manner that is not harmful to the dog but can be readily accessed for identification purposes. The amount of such license fees and late penalty fees shall be established by the City Common Council by separate resolution and may be periodically changed from time to time. The fees may be prorated by the City Clerk/Treasurer quarterly to the previous quarter for those dogs reaching license age during the year. Licenses and renewals shall be due each year between January 1 and March 1.

b. When a Hobby Kennel License Is Required. When more than three (3) dogs subject to be licensed as set forth in 4a above shall be kept on any residential or other non-commercial premises within the City for purposes as defined in 3c above, a hobby kennel license must be obtained from the City Common Council as required under the terms of the City Ordinances and as specifically set forth in following subsections. The fee for such license shall be determined by separate resolution of the City Common Council.

c. When a Commercial Kennel License Is Required. When one (1) or more dogs subject to be licensed as set forth in 4a above shall be kept on any premises within the City for purposes as defined in 3b above, a commercial kennel license must be obtained from the City Common Council as required under the terms of the City Ordinances and as specifically set forth in following subsections. The fee for such license shall be determined by separate resolution of the City Common Council.

5. LICENSING PROCEDURE REQUIRED FOR APPROVAL OF KENNEL LICENSES.

a. General

No person, group of people, firm or corporation shall be granted a kennel license from the City Common Council or keep one (1) or more dogs as a commercial kennel as defined above or more than three (3) dogs as a hobby kennel as defined above without first obtaining approval for such keeping by the City Plan Commission.

b. Application Process.

The Plan Commission, in reviewing the application or request for permission to keep dogs in either a commercial or hobby kennel as defined above shall take into account at least the following:

1. Size and type of premises on or in which the kennel or confinement area is proposed to be located.
2. Neighborhood in which the kennel is to be located.
3. Maximum total number of dogs to be kept on the premises at any time.
4. The expected male/female mix of dogs at any time.
5. The size and type of dogs to be kept.
6. The type of kennel enclosure, if any, including:
 - a. Size of enclosure(s).
 - b. Fencing type and height.
 - c. Type and size of year-round shelters
 - d. Source and location of water supply.
 - e. Sanitary maintenance, including provision for collection, storage and disposal of excrement, food waste and other waste solution or material.
 - f. Lighting.
 - g. Landscaping and other visual and noise barriers (screening).
 - h. Surface drainage.
7. Method(s) of suppressing noise.
8. Expected weekly pedestrian and vehicular traffic related to the keeping of dogs.
9. Hours of operation.
10. Any other information related to the keeping of the dogs as requested by the Plan Commission.

c. Specific Kennel Restrictions

In addition to the requirements or provisions of Chapter 174 of the Wisconsin Statutes, persons keeping dogs in the City and successfully obtaining a permit license for such keeping shall be required to keep the dogs in a healthful and sanitary condition and minimum requirements of the City for such keeping shall be as follows:

1. Dogs shall not be allowed to run 'at-large' outside of the premises or within the required street yard setback on the property as set forth in 6, below.
 2. An enclosed, insulated shelter at least five (5) feet in height shall be made accessible to every dog on the premises with the shelter having no less than 8 square feet in floor area for each dog required to have a license. Such shelter shall be kept clean and free of vermin, excrement and day-old food and shall be ventilated so that in times of hot weather the shelter can be fully ventilated to allow through movement of air and ventilation and, when necessary, heating can be maintained during the cold weather months. In addition, such enclosure shall be provided with translucent windows or skylights so that there is outside light entering the shelter during the day. Such shelter, if separate from the principle or accessory buildings on the premises, shall be placed so as to meet the yard setback requirements of the zoning ordinance.,
 3. Fence runs or enclosures for the dogs shall be provided at the direction of the owner/operator of the kennel. When so provided, the runs shall be enclosed so that the dogs cannot run at-large and shall be visually screened from the general public and, specifically, from the direction of the neighboring residences. Such screening may include a permanent wood or fabric screening in combination with the fence material or may be composed of dense evergreen planting, adjacent to and outside the fenced enclosure. The fence shall meet the maximum fence height requirements of the City zoning ordinance and may not be placed in the street yard setback areas of the premises as set forth in the City zoning ordinance. The fenced enclosure shall be kept clean and in a sanitary condition, free of excrement and food waste and, when provided, shall be large enough to accommodate the number of dogs licensed for the premises without crowding.
 4. Any dog or food waste shall be removed each day from the kennel area and shelter and stored on the premises in sealed containers, which are located a minimum of 50 feet from
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any residence and/or water supply, until such time as it can be properly disposed of in accordance with these and state and county health and sanitation regulations.

5. A site plan for the premises shall be required, including:
 - a. Location, to scale, of all of the existing and proposed buildings, shelters and fenced enclosures on the premises.
 - b. Dimensions of the distance of existing and proposed buildings, shelters and fenced enclosures from existing property boundaries.
 - d. Location of any underground containers or facilities, including any water wells or on-site sanitary sewerage disposal fields or containers on the premises.
 - e. Location of any pond, river or other water body on or adjacent to the premises.
6. Dog-to-area ratio of the premises. The number of dogs allowed to be kept or kenneled in the City shall be related to the area of the premises on which the dogs are kept and requests for permission to keep or kennel dogs shall be approved by the Plan Commission based upon the following dog-to-area ratios:
 - a. Keeping Dogs As Pets or Hobby.
 1. One (1) to three (3) dogs kept as pets or hobby of the owner or lessee of the premises – No kennel license required and no area size restrictions. (Dogs must be licensed as set forth in 4, above).
 2. Four (4) dogs kept and kenneled as pets or hobby by the owner or lessee of the premises – A minimum of 12,000 square feet.
 3. Five (5) to eight (8) dogs kept and kenneled as pets or hobby by the owner of the premises – 12,000 square feet plus 10,000 square feet for each additional dog over four (4), or a minimum of 52,000 square feet for eight (8) dogs.
 4. More than eight (8) dogs kept and kenneled as pets or hobby by the owner or lessee of the premises – 52,000 square feet plus 43,000 square feet for each additional dog over eight (8).
 - b. Keeping Dogs In a Commercial Kennel.
 1. A commercial kennel for the overnight boarding as well as training, grooming and breeding of no more than five (5) dogs – A minimum of five acres of land located outside of a subdivision platted after 1950.
 2. A commercial kennel for the overnight boarding as well as training, grooming and breeding of more than five (5) dogs – A minimum of five acres of land located outside a subdivision platted after 1950 plus one acre for each additional dog over five (5) dogs.
 3. A commercial kennel for only the daytime keeping of no more than eight (8) dogs for training, grooming and breeding purposes – A minimum of five acres of land located outside a subdivision platted after 1950.
 4. A commercial kennel for only the daytime keeping of more than eight (8) dogs for training, grooming and breeding purposes – A minimum of five acres of land located outside a subdivision platted after 1950 plus one acre for each additional dog over eight (8) dogs.

6. DOGS RUNNING AT LARGE

It shall be unlawful for dogs to run at-large any place within the City. A dog will be considered running at-large under this ordinance if it is on any property without the consent of the owner or occupant of that property and unless it is on a leash or otherwise under the constant control of the dog owner or keeper. The restriction set forth herein shall not be construed as to prevent any dog or dogs running at-large upon the premises of the owner or keeper of said dog as long as the dog remains on its owners or keepers premises and within the confines of the physical barriers prescribed in 5c(2) and (3), above.

7. DOG EXCREMENT AND FOOD WASTE DISPOSAL. (Rep. & Rec. #08-17)

- a. The owner, keeper or person having physical possession of a dog or dogs shall immediately remove and properly dispose of all dog excrement deposited by any dog on public property or on private property not under the control of the owner, keeper or person having physical possession of such dog or dogs. Said excrement shall be disposed of in a sanitary manner.
- b. It is unlawful to allow dog excrement and/or food waste to accumulate on private property to a level which is detrimental to the health, safety or welfare of persons, animals or property, as determined by ordinance enforcement personnel of the City conducting an investigation of said property. The accumulation of dog excrement and/or food waste shall be deemed detrimental to health, safety or welfare when there is sufficient quantity on the subject private property to generate detectible odors off the subject private property, or has accumulated in such proportion as to be visually offensive or attractive to flies, vermin or other animals.
- c. The owner of any property where dog excrement and/or food waste has been allowed to accumulate to a level detrimental to health, safety or welfare of persons or property, as determined by ordinance enforcement personnel of the City conducting investigation of said property, will be ordered to remove and dispose of the accumulation of excrement and/or food waste in a sanitary manner within a period of three calendar days of the date of said notice.
- d. Notice to the property owner will be provided in writing by: A) personal service; or B) certified mail, return receipt requested sent to the owner's address as it then appears on the real estate tax records of the City. If the property owner is not available, notice shall be given by posting the property at a conspicuous place. Notice shall be deemed given upon said personal service, as of the date of depositing said notice in the U.S. Mail, or as of the date of placing the posting on the subject property.
- e. Upon expiration of the original three calendar day period after service of the notice, each day the subject property remains in a condition that is detrimental to the health, safety or welfare of persons, animals or property, as determined by law enforcement personnel of the City, shall constitute a separate offense.
- f. Any accumulation of dog excrement and/or food waste upon private property contrary to this ordinance is declared to be a public nuisance.

8. VICIOUS DOGS

It shall be unlawful to keep a vicious dog within the City. A visual confirmation that a dog has bitten, attacked or injured any person or killed or maimed other dogs or pets on or off the dog owners or keepers premises shall constitute a prima facie showing that such a dog is vicious. Upon finding a dog to be vicious the Court shall order immediate destruction of the dog or removal from the City after passage of any detention period required for rabies or other health reason.

9. IMPOUNDMENT OF DOGS

- a. It shall be the duty of the dog catcher, law enforcement officer or any other officer duly appointed by the City Common Council to apprehend any dog or dogs running at-large within the City, as defined in Subsection 6, above and confine the animal in the Waukesha County Animal Shelter or other pound as designated by the City Common Council.
 - b. The Humane Officer or dog pound operator shall keep at the said dog pound all apprehended dogs for a period of seven days or until the owner picks up his dog, whichever occurs earlier, and if the dog(s) is (are) not reclaimed by its rightful owner within such time, it may be sold for the amount incurred in keeping said dog plus an administrative fee for the City as shall be established from time to time by resolution of the Common Council; or, if the dog cannot be sold within a reasonable time as determined by the pound keeper, the animal may be destroyed in such
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manner as the dog pound operator or Humane Officer shall direct. (Rep. & Rec. 06-17)

c. The owner or keeper of any dog so confined by the dog pound or Humane Officer may reclaim such dog before the same is sold or disposed of by payment of all costs and charges incurred by the City in impounding and keeping said dog. Payment shall be made to the City Clerk/Treasurer during regular office hours and shall include payment of an administration fee for the apprehension and processing of said dog. Before said dog shall be released to the owner, said dog shall be licensed as provided for herein and its owner or keeper shall receive a receipt from the City Clerk/Treasurer authorizing the Animal Shelter or dog pound to release said dog.

10. BARKING OR HOWLING DOGS A NUISANCE

A dog that barks or howls to such an extent that the noise disturbs any neighbor residing nearby by reason of excessive sound or unusual hours is hereby declared a nuisance. The owner or keeper of a dog that barks or howls in violation hereof shall, upon complaint of any person, upon verification of the Humane Officer or appropriate City enforcement personnel, be personally served with a notice in writing by the authorized City enforcement personnel directing said owner or keeper to take whatever steps are necessary to stop said nuisance within three days of the date of service of said notice. Continuance of said nuisance thereafter shall constitute a violation of this Ordinance.

11. COMPLAINT BY CITIZEN

Should a violation of this Ordinance be reported by a citizen, the City shall not be required to pursue prosecution unless and until the complaining citizen shall present his/her complaint in writing on forms supplied by the City and have such complaint notarized. Said citizen shall also agree in writing that, in the event said complaint is filed with the Court for prosecution, he/she will cooperate fully with the City Attorney in said prosecution including, if necessary, testifying in a Court trial to support said complaint. Any failure by a complaining citizen to cooperate with the City shall result in immediate dismissal of the complaint.

12. PENALTIES

Any person, firm, corporation or group of persons who shall violate any provision of this Section shall be subject to a penalty as provided in Section 25.04 of this Municipal Code. In addition to the penalty as provided, the Court shall have the power to order abatement of any illegal activity under this Section including the power to order destruction of the offending animal and the revocation of licenses and permits.

11.06 PEDDLERS, CANVASSERS, SOLICITORS AND TRANSIENT MERCHANTS.

1. LICENSE REQUIRED (Rep. & Rec. 09-05)

No direct seller shall engage in direct sales with the City without first obtaining a license from the Clerk in compliance with the provisions of this Section. (Rep. & Rec. 09-21)

1.5 DEFINITIONS

For the purposes of this Section, the following terms shall have the following meanings:

- a. "Direct Seller." Any individual who, for himself or herself, or for a partnership, association, corporation or other entity, sells or takes sales orders for the later delivery of goods or services at any location other than the permanent business place or residence of such individual, partnership, association, corporation or other entity, and shall include, but not be limited to, peddlers, solicitors, canvassers, and transient merchants. The sale of goods or services includes transactions in which
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donations are required or anticipated by the direct seller for the retention of goods, services or any item by a donor or prospective customer.

- b. "Permanent Merchant." A direct seller who, for at least one twelve (12) month period immediately prior to the consideration of the application of this Section to such merchant, has continuously operated an established place of business in the City or has continuously resided in the City and now does business from his or her residence.
- c. "Goods." Includes, but is not limited to, personal property of any kind and shall include goods or items provided incidental to services offered or sold.
- d. "Charitable Organization." Includes, but is not limited to, a benevolent, philanthropic, patriotic or eleemosynary person, partnership, association, corporation, or other entity, or one purporting to be such.

2. EXEMPTIONS (Rep. & Rec. 09-05)

The following shall be exempt from the provisions of this Section relative to the requirement of first obtaining a license:

- 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.
- d. Any permanent merchant or employee thereof who takes orders away from the established place of business for goods or services regularly offered for sale by such merchant within the City and who delivers such goods in their regular course of business.
- e. Any person who has an established place of business where the goods or services 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 such 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 holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law.
- h. Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of such organization, provided that there is submitted to the City Clerk proof that such charitable organization is registered under §440.41, Wis. Stats. Any charitable organization not registered under §440.41, Wis. Stats., or which is exempt from that statute's registration requirements, shall be required to comply with this Section.
- i. Any person who claims to be a permanent merchant, but against whom complaint has been made to the City 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 is conducting business, or proof that such person has conducted such business in the City for at least twelve (12) continuous months immediately prior to the date complaint was made.

3. APPLICATION (Rep. & Rec. 06-17)

At the time of filing application an investigation fee as shall be established from time to time by resolution of the Common Council shall be paid to the City Clerk to cover the cost of investigation of the facts stated in the application. The application shall be sworn to by the applicant and filed with the City Clerk and shall contain such information as the Clerk shall require for the effective enforcement of this Section and the safeguarding of the residents of the City from fraud, misconduct or abuse.

4. INVESTIGATION; ISSUANCE

Upon receipt of each such application, a law enforcement officer shall immediately institute such investigation of applicant's business and moral character as he deems necessary for the protection of the public good, and shall endorse his approval or disapproval upon said application within seventy-two (72) hours after it has been filed with the City Clerk, and the City Clerk shall issue or deny the license in accordance with the standards set forth in this Code and upon payment of the license fee. (Rep. & Recr. 09-21)

5. FEE (Rep. & Rec. 06-17, 09-05)

The fee for a license as herein provided shall be as established from time to time by resolution of the Common Council. Annual licenses issued on or after July 1 shall be issued for half (1/2) the required annual fee. No fee shall be required for a canvasser or other person simply seeking information for a recognized public purpose. A direct seller may employ one assistant without payment of and additional license fee, but such persons must comply with the other provisions of this Section.

6. BOND (Rep. & Rec. 09-05)

If the Chief determines from his investigation of said application that the interests of the City or of inhabitants of the City require protection against possible misconduct of the licensee or that the applicant is otherwise qualified but due to causes beyond his control is unable to supply all of the information required by Section 11.06, Subsection (3), he may require the applicant to file with the City Clerk a bond in the sum of \$500.00 with surety acceptable to the Mayor running to the City conditioned that he will fully comply with the Ordinances of the City and laws of the State relating to direct sellers and guaranteeing to any citizen of the City doing business with him that the property purchased will be delivered according to the representations of applicant, provided that action to recover on any such bond shall be commenced within six (6) months after the expiration of the license of the principal.

7. EXPIRATION; RENEWAL; TRANSFER

The Clerk shall date all licenses issued hereunder and shall specify thereon the fee paid and date of expiration. Annual licenses shall be issued on a calendar year basis and expire December 31 of the year of issue. Applications for renewals shall be handled in the same manner as original applications. Licenses issued under this Section are personal and may not be transferred.

8. REGULATIONS AND RESTRICTIONS (Rep. & Rec. 09-05)

a. Consent required

No direct seller as herein defined shall go in or upon any private residence, business establishment or office in the City for the purpose of soliciting orders for goods, wares and merchandise or peddling or hawking the same or soliciting subscriptions for magazines or other periodicals without having been requested or invited to do so by the owner or owners, occupant or occupants of said place.

b. Display of license

Persons licensed under this Section shall carry their licenses with them while engaged in licensed activities and shall display such licenses to any law enforcement officer or citizen upon request. (Rep. & Recr. 09-21)

c. Misrepresentation prohibited

No licensee shall intentionally misrepresent to any prospective customer the purpose of his visit or

solicitation, nor the name or business of his principal, if any, nor the source of supply of the goods, wares or merchandise which he sells or offers for sale nor the disposition of the proceeds or profits of his sales.

d. Loud noises and speaking devices

No licensee, 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, alleys, parks or other public places of the City or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

e. Use of streets

No licensee shall have any exclusive right to any location in the public streets, nor shall any licensee be permitted a stationary location thereon nor be permitted to operate in a congested area where such operation might impede or inconvenience the public use of such streets. For the purpose of this Ordinance, the judgment of a law enforcement officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (Rep. & Recr. 09-21)

f. Prohibited Practices (Cr. 09-05)

A direct seller shall be prohibited from calling at any dwelling or other place between the hours of 7 p.m. and 9 a.m., except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of 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.

9. SUSPENSION OR REVOCATION OF LICENSE

Licenses issued hereunder may be revoked or suspended by the Mayor for not to exceed five (5) days pending hearing by the City Common Council for fraud, misrepresentation or incorrect statement contained in the application or made in the course of carrying on business; conviction of licensee of any crime or misdemeanor or conducting the licensed business in an unlawful or disorderly manner or in such a manner as to menace the health, safety or general welfare of the public.

10. CITY COMMON COUNCIL MAY REDUCE FEES

Notwithstanding anything herein to the contrary, the City Common Council may, upon application made to it and upon a showing of cause, reduce, to an amount not less than \$10.00, any of the fees called for herein. In exercising its discretion under this Section, the City Common Council shall consider the purposes for which this Ordinance was adopted, and shall take into account the risk of injury, economic or otherwise, to the general public arising out of the conducting of the applicant's business, the fact of whether or not the applicant's goods and services are delivered at the time payment is made for them, the contemplated duration of the business activity of the applicant and such other factors as the City Common Council may deem relevant. In exercising its discretion under this Section, the City Common Council may impose and/or set such restrictions and conditions as it deems appropriate to effectuate the intent of this Ordinance.

11.07 LARGE GATHERINGS.

1. INTENT

a. It is the purpose of the City Common Council of the City of Pewaukee to regulate the assemblage of large numbers of people, in excess of those normally needing the health, sanitary, fire, police, transportation and utility services regularly provided in the City of Pewaukee, in the order that the health, safety and welfare of all persons in the City of Pewaukee, residents and visitors alike, may be protected.

b. It is the intent of the City Common Council of the City of Pewaukee that all Sections and provisions of this Ordinance have an independent existence, and, should any Section or provision be declared invalid or unconstitutional by a court of competent jurisdiction, it is the intent that any Section or provision so declared shall be severable from and shall not affect the validity of the remainder of the Ordinance.

2. LICENSE REQUIRED

a. No person shall permit, maintain, promote, conduct, advertise, act as entrepreneur, undertake, organize, manage or sell or give tickets to an actual or reasonably anticipated assembly of one hundred fifty (150) or more people which continues or can reasonably be expected to continue for two (2) or more consecutive hours, whether on public or private property, unless a license to hold the assembly has first been issued by the City Common Council of the City of Pewaukee, application for which must be made to the City Clerk at least thirty (30) days in advance of the assembly. A license to hold an assembly issued to one (1) person shall permit any person to engage in any lawful activity in connection with the holding of the licensed assembly. (Rep. & Rec. 07-13)

b. The City Clerk, the head of law enforcement services, and the Fire Chief jointly may administratively waive the requirement imposed by this Section and this Ordinance if they determine that the group or organization or type of activity is of such nature that the event would be unlikely to generate unusual traffic or crowd control problems. The types of events which could be exempted from the terms of this Ordinance are church picnics, socials, family gatherings, coordinated athletic events at the City parks and similar events of like nature. (Rep & Rec. 07-13, 09-21)

c. As used in this legislation:

- (1) "Person" means any individual natural human being, partnership, corporation, firm, company, association, society or group;
- (2) "Assembly" means a company of persons gathered together at any single time for any purpose.

d. A separate license shall be required for each day and each location in which one hundred fifty (150) or more people assemble or can reasonably be anticipated to assemble; the fee for each license shall be as established from time to time by resolution of the Common Council. (Rep. & Rec. 06-17)

e. 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 permissible number of people.

f. The licensee shall not permit the sound of the assembly to carry unreasonably beyond the enclosed boundaries of the location of the assembly.

g. This Ordinance shall not apply to events which are regularly established or which are sponsored by local civic, charitable or social organizations nor shall this Ordinance apply to assemblies which are regularly established, permanent place of worship, stadium, athletic fields, arenas, auditoriums or other similar established places of assembly for assemblies which do not exceed by more than two hundred fifty (250) people the maximum seating capacity of the structure where the assembly is held.

h. This legislation shall not apply to government-sponsored fairs held on regularly established fair grounds nor to assemblies required to be licensed by other laws and regulations of this City.

3. CONDITIONS FOR ISSUING LICENSE.

Before he may be issued a license 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 (4) gates, at least one (1) at or near four (4) 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 (1) gallon per person per day and water for bathing at the rate of at least five (5) gallons per person per day. The requirement for water for bathing shall be only required in the event the gathering is going to be overnight.

(3). Separate enclosed toilets for males and females, meeting all state and local specification, 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 (1) toilet for every fifty (50) females and at least one (1) toilet for every seventy-five (75) males together with an efficient, sanitary means of disposing of waste 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 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. The sanitary disposal system described above shall be approved by the Waukesha County Health Department.

(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 two hundred (200) people; and at least one (1) nurse for every one thousand (1,000) people, together with an enclosed covered structure where treatment may be rendered, containing separately enclosed treatment rooms for each physician, and at least one (1) 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 (1) parking space for every four (4) 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 five hundred (500) persons.

(9). If the assembly is to continue overnight, camping facilities in compliance with all state and local requirements as set forth in the Wisconsin Administrative Code and Ordinances of this City, sufficient to provide camping accommodations for the maximum number of people to be assembled. The facilities for camping shall be laid out in detail and shall be subject to the approval of the Waukesha County Health Department.

(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 (1) security guard for every two hundred fifty (250) people.

(11). Fire protection, including alarms, extinguishing devices and fire lanes and escapes, sufficient to meet all state and local standards for the location of the assembly as set forth in the Wisconsin Administrative Code and Ordinances of this City, and sufficient emergency personnel to efficiently operate the required equipment. This shall be subject to the approval of the Fire Chief of the Fire Department having jurisdiction over the area.

(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 Clerk of the City of Pewaukee either in cash or underwritten by a surety company licensed to do business in Wisconsin in the principal sum of \$7,500.00 which shall indemnify and hold harmless this City, or any of its agents, officers, servants and employees from any liability or causes 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. The City of Pewaukee shall have the right under the terms of said bond to enter upon the premises where the assembly was held without notice to the bonding company and clean up and repair and charge the reasonable cost thereof to said bonding company without any requirement that the City shall attempt to collect from the sponsor or applicant hereof.

4. APPLICATION

Application for a license to hold an actual or anticipated assembly of one hundred fifty (150) or more persons shall be made in writing to the City Common Council of this City at least thirty (30) days in advance of such assembly.

a. 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, natural, human being, 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.

b. The application shall contain and disclose:

1. The name, age, residence and mailing address of all persons required to sign the application by Section 11.07, Subsection (4)(b) 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 ten percent (10%) or more of the stock of 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(s) 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(s) of all such property that the applicant has permission to use such property for an assembly of one hundred and fifty (150) or more persons.
 4. The nature or purpose of the assembly.
 5. The total number of days and/or hours during which the assembly is to last.
 6. The maximum number of persons which the applicant shall permit to assemble at any time, not to exceed the maximum number which can reasonably assemble at the location of the assembly, in consideration of the nature of the assembly, of the maximum number of persons allowed to sleep within the boundaries of the location of the assembly by the Zoning Ordinances of the City if the assembly is to continue overnight.
 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 of 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 of 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 telephones.
 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 alarms 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
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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

22. The applicant himself shall be available at all times the assembly is in process to answer to any complaints or to discuss matters of security, safety, health and welfare that may arise during the course of the assembly. The applicant shall maintain a location at the assembly where he may be located at any time needed by any official of the City of Pewaukee.

c. The application shall include the bond required in Section 11.07, Subsection (3)(b)(13), and the license fee.

d. The City of Pewaukee in the course of investigation and approval of the application herein shall have the right to call upon the assistance of the Waukesha County Health Department, and any other state, county or local body it feels necessary for assistance in promoting the safety, health, welfare and security of the residents of the City of Pewaukee and the persons attending the assembly.

5. ISSUANCE

The application for a license shall be processed within twenty (20) days of receipt and shall be issued if all conditions are complied with, with the exception that the City reserves the right to disapprove any application if it appears that the safety, health, welfare and security of the City of Pewaukee or persons attending the assembly will not be promoted by the assembly.

6. REVOCATION

The license may be revoked by the City Common Council of this City at any time if 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 violated Section 11.07, Subsection (2)(a) or who violates any condition upon which he is granted a license may be fined not less than \$1,000.00 nor more than \$10,000.00. Each day of violation shall be considered a separate offense.

d. In addition to the penalties and the remedies provided above, in the event any condition of this license is not complied with or is broken during the course of the assembly, the head of law enforcement services shall have the right to order the assembly disbanded immediately. (Rep. & Recr. 09-21)

11.08 CLOSING-OUT SALE LICENSE.

1. LICENSE REQUIRED

No person, organization or corporation shall conduct, in the City of Pewaukee, a "closing-out sale" of merchandise until a license therefore is obtained from the City of Pewaukee.

2. DEFINITION

A "closing-out sale" is defined as any retailing or advertising for retail any merchandise of a bankrupt,

insolvent, assignee, liquidator, adjuster, administrator, trustee, executor, receiver, wholesaler, jobber, manufacturer, or of any business that is in liquidation, that is closing out, closing or disposing of its stock or a particular part or department thereof, that has lost its lease or has been or is being forced out of business, that is disposing of stock on hand because of damage by fire, water, smoke, or other cause, or that for any reason is forced to dispose of stock on hand.

3. APPLICATION

Application for a "closing-out sale" shall apply to the Clerk on the form provided. Applicant shall attach to said application an inventory containing a complete and accurate list of the stock of merchandise proposed to be sold.

4. DATE OF SALE (Rep. & Rec. 06-17)

Said application shall contain the time and date for the sale and shall be held on no other date unless extended by the City Common Council. Any change or extension of the date of sale will be granted only if applicant gives an affidavit that no newly added merchandise will be sold. A request for extension of the time of the sale shall be accompanied by an additional fee as shall be established from time to time by resolution of the Common Council.

5. FEES (Rep. & Rec. 06-17)

The fee for a license shall be as established from time to time by resolution of the Common Council.

6. EXEMPTIONS FROM LICENSES

Sales by public officers or sold under juridical process are exempt from compliance with this ordinance.

7. ALL CITY FEES PAID

No license as provided in this code shall be issued until applicant has paid all personal property taxes, charges or any other fees owed to the City at the time of application.

8. ISSUANCE OF LICENSE

The City Common Council shall act upon said application at the next regularly scheduled meeting of said body after the clerk has determined the application is in order and all fees and charges have been paid.

9. PENALTIES

Any person, organization or corporation who sells, offers or exposes for sale any merchandise in violation of this code, or merchandise not listed, or violates the dates or terms of such sale shall be subject to a penalty upon conviction thereof not less than \$25.00 nor more than \$200.00 for each violation. Each article sold in violation of this code shall constitute a separate offense and any false or misleading information supplied in said application or extension shall constitute a violation of this code.

11.09 SECONDHAND ARTICLE DEALER, JEWELRY DEALER AND PAWNBROKER ESTABLISHMENTS.

1. PUBLIC WELFARE

It is hereby determined necessary in the interest of public health, safety and welfare that the conduct of both transient dealers of or establishments for the sale or resale of secondhand articles or jewelry and pawn brokering in the City of Pewaukee shall be regulated.

2. BASIC REGULATION

Section 134.71 of Wisconsin Statutes, as amended is hereby adopted, in its entirety, as the basic

regulation of the use and operation of second hand dealers, pawnbrokers and jewelry dealers in the City of Pewaukee.

3. ADDITIONAL REGULATIONS

In addition to the "articles" defined in Section 134.71(1), Wis. Stats., which are made a part of this Section, the following articles are specifically included as articles to be regulated under this Section:

- a. Secondhand or used sport and recreation equipment and apparel.
- b. Secondhand or used home furnishings such as appliances, dining and living room furniture/equipment.
- c. Old coins or stamps.
- d. Other tangible personal property not included in s. 134.71 of Wis. Stats.

11.10 ESCORT AND ESCORT SERVICE LICENSES. (Cr. 06-15)

(1) Definitions. The terms used in this section shall be defined as follows:

“Escort”: includes any person who, for a fee, commission, salary, hire, profit, payment or other monetary consideration accompanies or offers to accompany another person to or about social affairs, entertainments or places of amusement or consorts with another person about any place of public resort or within any private quarters.

“Escort service”: includes service provided by any person who, for a fee, commission, salary, hire, profit, payment or other monetary consideration, furnishes or offers to furnish names of persons, or who introduces, furnishes or arranges for persons who may accompany other persons to or about social affairs, entertainments or places of amusement, or who may consort with others about any place of public resort or within any private quarters.

“Operator”: means any person, partnership, corporation or other organization operating, conducting, maintaining or owning any escort service.

(2) License required.

- A. No person may engage in, conduct or carry on the operation or maintenance of an escort service or act as an escort without first obtaining a valid license issued under this section.
 - B. A license may be issued only for one escort service located at a fixed and certain place. Any person desiring to operate more than one escort service office or location must have a license for each escort service office or location.
 - C. All escorts or escort services existing or operating in the city at the time of the adoption of this section must submit an application for a license within 60 days of the adoption of this section.
 - D. Exemptions.
This section does not apply to businesses, agencies and persons licensed by the state or the city pursuant to a specific statute or ordinance, and employees employed by a business so licensed, and which perform an escort or an escort service function as a service merely incidental to the primary function of such profession, employment or business and which do not hold themselves out to the public as an escort or an escort service.
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(3) License application.

A. Any person desiring an escort or escort service license shall file a written application on a form provided by the clerk's office and pay the application fee to defray the cost of investigation and administration to the city clerk. The information provided to the clerk shall be provided under oath. An application will not be processed until the application fee is paid.

B. Required Application Information

1. Escort Services

- a. Corporations. If the applicant is a corporation, the name of the corporation shall be set forth exactly as set forth in its articles of incorporation, together with the date and state of incorporation, the name and residence address of each of its officers, directors and each stockholder holding five percent or more of the stock or beneficial ownership of the corporation. The application shall also be verified by an officer of the corporation.
 - b. Partnership. If the applicant is a partnership, the application shall set forth the name of the partnership and the name and residence address of each of the partners, including limited partners, and shall be verified by each partner. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporate applicant shall apply to the corporate partner.
 - c. Others. If the applicant is neither a corporation nor a partnership, the application shall set forth the true full name and residence address of the applicant and shall be verified by the applicant. The application shall also include any other name by which the applicant has been known during the previous five years.
 - d. The application also shall set forth the proposed place of business of the escort service by physical address, including suite number, and mailing address if different. The application shall contain a description of the nature and scope of the proposed business operation.
 - e. The following information shall be furnished concerning the applicant if an individual; concerning each officer and director and all stockholders who own five percent or more of the stock or beneficial ownership if the applicant is a corporation; concerning each partner, including limited partners, if the applicant is a partnership:
 2. The previous residence address, if any, for a period of three years immediately prior to the date of application and the dates of such residence;
 3. Written proof that the individual is at least eighteen (18) years of age;
 4. A complete set of fingerprints;
 5. The business, occupation or employment history for three years immediately preceding the date of application, including, but not limited to, whether such person previously operated under any permit or license in another city in this or another state and whether any such permit or license had ever been suspended or revoked;
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6. All convictions in any state or federal court within the past five years, including municipal ordinance violations, exclusive of traffic convictions, with a brief statement of the nature of the convictions and the jurisdiction in which the convictions occurred;
7. All pending criminal charges in any state or federal court, with a brief statement of the nature of the pending charges and the jurisdiction in which the charges are pending;
8. The names of persons who will have custody of the business records at the business location;
9. The name and address of the person who will be the agent for service of process.

2. Escorts

Applicants for an escort license shall provide the applicable information in subdivision 1., above, as well as the applicant's height, weight, color of eyes and color of hair. The applicant shall provide two passport-size color photographs at least one inch by one inch taken within 3 months of the date of application. In addition, the applicant shall identify by name and address the escort service at which the applicant is currently working, if any, or at which the applicant expects to be employed.

(4) Application Review Process.

- A. The City Clerk shall notify the head of law enforcement services, the chief of the fire department, the building inspector and the council or its designee of any escort service license application and these officials shall inspect or cause to be inspected each such 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 City Clerk, in writing, the information derived from such investigation and a statement as to whether the applicant and the premises meet the requirements of the departments for whom the officer is certifying within 10 days of receipt of notice from the city clerk. No license shall be renewed without a reinspection of the premises. Applications for an escort license shall be referred to law enforcement officers only. (Rep. & Recr. 09-21)
- B. Within 30 days of receiving an application for a license, the Common Council shall grant or deny a license to the applicant upon a recommendation of the Clerk. The City Clerk shall notify the applicant whether the application is granted or denied. The City Clerk shall issue the licenses if granted. An escort license shall contain the applicant's true first name, surname and middle initial, if any; the picture of the applicant; and the license number and the expiration date of the license. The license shall be in such form as to avoid alteration.
- C. Whenever an application is denied, the City Clerk shall advise the applicant, in writing, of the reasons for such action. If the applicant requests a hearing in writing within 10 days of receipt of notification of denial, a public hearing shall be held within 10 days thereafter before the council or its designee.

(5) Licensing Standards.

- A. The council shall issue an escort or escort service license if, upon recommendation by the Clerk, it finds that:
 1. The required fee has been paid;
 2. The application conforms in all respects to this section;
 3. The applicant has not knowingly made a material misstatement in the application;
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4. The applicant has fully cooperated in the investigation of his application;
 5. The applicant, would comply with all applicable laws, including, but not limited to, the city's building and zoning codes;
 6. The applicant has not had an escort or escort service license or permit or other similar license or permit revoked or suspended in this state or any other state within three years prior to the date of application;
 7. The applicant, if an individual; any of the stockholders holding five percent or more of the stock or beneficial ownership of the corporation; and any officers, agents or directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership, does not, at the time of application, have pending any criminal charge for, or within five years prior to the date of application has not been convicted of any offense involving dishonesty, fraud, deceit, robbery, the use or threatened use of force or violence upon the person of another, or sexual immorality under Ch. 944, Wisconsin Statutes, as amended, or other offenses subject to §111.335, Wisconsin Statutes, as amended;
 8. The applicant, if a corporation, is licensed to do business and is in good standing in the state;
 9. All individual applicants; all stockholders holding five percent or more of the stock or beneficial ownership, directors and officers, if the application is a corporation; and all partners, including limited partners, if the applicant is a partnership, are at least eighteen (18) years of age.
- B. Failure or refusal of the applicant to give any information relevant to the application, failure or refusal to appear at any reasonable time and place for examination under oath regarding the application or refusal to submit to or cooperate with regard to any information required by this section shall constitute an admission by the applicant that he is ineligible for such license and shall be grounds for denial.
- (6) Display of Licenses.
The escort service license shall be displayed in a conspicuous public place in the escort service's place of business. Escort licenses shall be carried on the person of the escort and shall be exhibited to any person, including law enforcement personnel, requesting to see it at any time while the person is engaged in acting as an escort.
- (7) Changes regarding ownership of escort Service.
- A. Any corporation holding an escort service license under this section shall report to the city clerk, in writing, within fifteen (15) days of the event described herein, any of the following:
 1. Any change of officers of the corporation;
 2. Any change in the membership of the board of directors of the corporation.
 - B. Sale or transfer of interest in escort service. Upon the sale or transfer of any interest in an escort service, the license shall be void. Any person desiring to continue to operate an escort service following sale or transfer shall apply for a license.
- (8) Responsibilities of licensees.
- A. Every act or omission by an employee constituting a violation of the provisions of this section shall be deemed the act or omission of the escort service 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. The operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.
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- B. Every act or omission by an escort, regardless of whether the escorts are employees, agents or independent contractors, shall be deemed the act or omission of the escort service 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 escort's conduct. The operator shall be punishable for such act or omission in the same manner as if the operator caused such act or omission.
- C. No escort service operator may allow or permit any person to work as an escort for such escort service unless the person so employed has a valid escort license issued by the city.
- D. No escort may work for any escort service operator unless the escort service operator has a valid escort service license issued by the city.
- E. No escort service may conduct any business without maintaining on its premises a daily register containing the name of each escort currently employed or otherwise working for the escort service on the date in question, a duplicate of the escort license certificate required under this Section and the actual hours of employment of each escort for each day. The daily register shall be available during all business hours for inspection by law enforcement personnel.
- F. No person licensed as an escort or escort service may in any manner advertise its services as licensed by the city.

(9) License renewal.

- A. Every license issued pursuant to this section shall terminate at the expiration of one year from date of issuance unless sooner revoked and must be renewed before operation is allowed in the following year. All applications for the renewal of escort service and escort licenses issued by the city shall be filed with the city clerk's office on a form to be provided by the clerk no later than 60 days prior to the expiration of the license. The renewal application shall contain such information and data, given under oath or affirmation, as is required for an application for a new license. Applications to renew licenses shall be processed by the city in the same fashion as new applications.
- B. Renewal applications shall be accompanied by a renewal fee as set from time to time by resolution of the Common Council. In addition to the renewal fee, a late penalty fee shall be assessed against any applicant who files for renewal less than 60 days before the license expires. Renewal applications will not be processed until the fee is paid.

(10) Suspension or revocation of license.

- A. Any escort service or escort license may be suspended for not more than 90 days or revoked by the council for any of the following reasons:
 - 1. Any of the grounds that would warrant the denial of the original application for the license;
 - 2. Discovery that false or misleading information or data was given on any application or material facts were omitted from any application;
 - 3. The operator or any employee of the operator or any escort employed by the operator violates any provision of this section or any rules or regulations adopted by the council pursuant to this section; provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee or escort, the penalty shall
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not exceed a suspension of 30 days if the Common Council finds that the operator had no actual or constructive knowledge of such violation and could not, by the exercise of due diligence, have had such actual or constructive knowledge;

4. The licensee becomes ineligible to obtain a license or permit;
- B. An escort service or escort license may be suspended or revoked after notice and hearing before the Common Council to determine if grounds for such suspension or revocation exist. Notice of the hearing shall be in writing and sent by certified mail addressed to the licensee at the current address of the licensee on file with the city clerk's office. The notice shall be served at least ten days prior to the date of hearing. The notice shall state the grounds of the complaint against the licensee and shall designate the time and place where the hearing will be held.
- C. Any licensee whose license is revoked shall not be eligible to receive a license for one year from the date of revocation. No location or premises for which a license has been issued shall be used as an escort service for six months from the date of revocation of the license.

11.11 PRIVATE BUSINESS EMPLOYEE WAGE AND BENEFIT NON-REGULATION. (Cr. 09-08)

1. Limitation of Municipal Wage and Benefit Regulation for Private Employers

Except to the extent required by state or federal law, no ordinance of the City of Pewaukee nor any other City rule, resolution or regulation shall require that any private employer provide particular wages or benefits to its employees or set forth the amount or type of an employee wage or benefit provided an employee by any private employer within the City or doing business within the City.

11.15 PENALTIES.

Any person who shall violate any provision of this Chapter or any order, rule or regulation made hereunder shall be subject to a penalty as provided in Section 25.04 of this Municipal Code unless otherwise specifically specified.
