

CHAPTER 11

LICENSES AND PERMITS

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11.01 GENERAL PROVISIONS. (1) APPLICATION. Every application for a license or permit required by this chapter shall be made upon a form furnished by the Clerk-Treasurer and verified. The alcohol beverage license fee shall be paid not less than 15 days prior to the date the license is to be issued.

(2) LICENSE ISSUANCE. Licenses, when granted, shall be issued by the Clerk-Treasurer and shall state the date thereof, the day from which it shall be in force, the name, the place of business of the person to whom it is issued, the particular purpose, and the time for which issued, and the amount of license fee paid. The Clerk-Treasurer shall keep all such applications on file and keep a record of all licenses issued. In the event any license applied for is denied, the Clerk-Treasurer shall return the license fee to the applicant.

(3) LICENSE TERMINATION. Except as otherwise specifically provided, every license or permit granted under this chapter shall terminate or expire on June 30 of each year.

(4) NO REFUND OF FEES. No license or permit fee shall be refunded if a license or permit is surrendered or revoked for cause.

(5) TRANSFER OF LICENSE. No license may be transferred unless otherwise provided in this chapter.

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

(7) DEFINITIONS. As used in this chapter, the following definitions shall apply:

(a) Legal Drinking Age. (Ord. 01-2020) Twenty-one (21) years of age.

(b) Underaged Person. A person who has not attained the legal drinking age.

11.02 INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES. (1) STATE STATUTES ADOPTED. The provisions of Ch. 125, Wis. Stats., relating to the sale of intoxicating liquor and fermented malt beverages except §§125.075, 125.09(6), 125.11(1), 125.14(4), 125.59 and 125.66, Wis. Stats., exclusive of any provisions thereof relating to the penalty to be imposed or the punishment for violation of said statutes, are hereby adopted and made a part of this section by reference.

(2) LICENSES. (a) When Required. No person, except as provided by sub. (1) of this section, shall distribute, vend, sell, offer or keep for sale at retail or wholesale, deal or traffic in, or, for the purpose of evading any law or ordinance, give away any intoxicating liquor or fermented malt beverage, or cause the same to be done, without having procured a license or permit as provided in this section, nor without complying with all the provisions of this section and all statutes, ordinances, and regulations of the State and City applicable thereto.

(b) Separate License Required for Each Place of Sale. A separate license shall be required for each stand, place, room, or enclosure or for each suite of rooms or enclosures which are in direct connection or communication where intoxicating liquor or fermented malt beverages are kept, sold, or offered for sale; and no license shall be issued to any person for the purpose of possessing, selling or offering for sale any intoxicating liquor or fermented malt beverage in any dwelling house, flat or residential apartment.

(3) LICENSE APPLICATION. Application for a license to sell or deal in alcohol beverages shall be made in writing on the form prescribed by §125.04(3), Wis. Stats., and shall be filed, together with the cost of publication, as provided by §125.04 (3) (g) 6., Wis. Stats., with the Clerk-Treasurer not less than 15 days prior to the granting of the license. However, applications for licenses to be issued under §§125.26(6) and 125.51(4m), Wis. Stats., shall be filed with the Clerk-Treasurer not less than 3 days prior to the granting of the license. Further, as a condition of granting an operator's license, the applicant shall permit the City to secure from the Federal Bureau of Investigation and the Wisconsin Crime Information Bureau a record check of the applicant. No license shall be issued until the fee has been paid.

(4) LICENSE FEES. There shall be the following classes and denominations of licenses:

(a) Class "B" Fermented Malt Beverage Retailer's License. (Ord. 01-2020) For the license year, July 1, 2020, to June 30, 2021, the license fee shall be \$50 per year. Commencing July 1, 2021, and all subsequent years the license fee shall be \$100 per year or $\frac{3}{4}$ of such amount for a 6-month period.

(b) Temporary Class "B" License (Picnic License). \$10 per occasion. Issued to organizations enumerated in §125.32 (4)(a)7., Wis. Stats., to sell or serve fermented malt beverages and wine containing not more than 6% alcohol by volume at a picnic, meeting, or gathering. See also §125.26 (6), Wis. Stats.

(c) Wholesaler's Fermented Malt Beverage License. \$25 per year or fraction thereof.

(d) Special Wholesaler's License. \$25 per year.

(e) Beverage Operator's License. (Ord. #02-2023) \$25 per year.

(f) Retail "Class A" Liquor License. \$400 per year.

(g) Retail "Class B" Liquor License. (Ord. #01-2020) For the license year, July 1, 2020, to June 30, 2021, the license fee shall be \$200 per year. Commencing July 1, 2021, and all subsequent license years the license fee shall be \$400 per year.

(h) Retail "Class A" Fermented Malt Beverage License. \$100 per year.

(i) Provisional License. The Clerk-Treasurer shall be authorized to issue a provisional operator's license pursuant to §§125.17(5) and 125.17(6)(b), Wis. Stats. The fee shall be \$15.

(j) Reserve "Class B" Liquor License (Ord.#06-2001). The fee for a reserve Class B liquor license under §125.51(4), Wis. Stats., shall be \$10,000 for initial issuance except that the fee for the initial issuance of a reserve Class B license to a bona fide club or lodge situated and incorporated in the state for at least six (6) years is the fee established in subdivision(g) for such club or lodge. The fee established in this subdivision is in addition to the fee required under subdivision (g) above. The annual fee for renewal of a reserve Class B license is the fee established in subdivision (g).

(k) Repealed on May 19, 2020.

(5) LICENSE RESTRICTIONS. In addition to the requirements imposed by the provisions of the Wisconsin Statutes adopted by reference in sub. (1) of this section, the following restrictions shall apply to the issuance of licenses or permits pursuant to this section:

(a) Qualifications for Licenses and Permits, Natural Persons. Licenses related to alcoholic beverages, issued to natural persons under this section, may be issued only to persons who:

1. Do not have an arrest or conviction record, subject to §§111.321, 111.322, and 111.335, Wis. Stats.

2. Have been residents of this State continuously for at least one year prior to the date of filing the application for license, except that a Class "B" license may be issued to a person who has been a residence of the State continuously for 90 days prior to the date of the application.

3. Have attained the legal drinking age, except that operators' licenses may be issued to persons who have attained the age of 18.

(b) Effect of Revocation of License. No license shall be issued for any premises if a license covering such premises has been revoked within 6 months prior to application. No license shall be issued to any person who has had a license, issued pursuant to this section, revoked within 12 months prior to application.

(c) Closing Hours. 1. Class A Licenses. No premises for which a retail "Class A" liquor license has been issued shall be permitted to stay open for the sale of said liquor between the hours of 9:00 P.M. and 9:00 A.M. Sunday through Saturday and no premises for which a retail Class "A" fermented malt beverage license has been issued shall be permitted to stay open for the sale of said fermented malt beverages between the hours of 11:00 P.M. and 9:00 A.M. Sunday through Saturday.

2. "Class B" Licenses. Between the hours of 2:00 A.M. and 6:00 A.M., except on Saturday and Sunday, the closing hour shall be 2:30 A.M.; on January 1 there are no closing hours.

(d) Health and Sanitation. No license shall be issued for any premises which does not conform to the sanitary, safety, and health requirements of the State Department of Industry, Labor and Human Relations, and the State Board of Health and to all ordinances and regulations adopted by the City.

(e) Tax Delinquencies. No license shall be granted for operation on any premises upon which taxes or assessments are delinquent or other financial claims of the City are unpaid.

(f) Where Premises Permitted. No license shall be granted for any premises within the City except within the following areas:

1. The area zoned as the B-1 Central Business District.

2. Keep Street, from the present C.T.H. F to a point 500 feet north thereof.

3. The area zoned as the BP Business Park District.

(g) License Quotas. 1. "Class A" Intoxicating Liquor Licenses. The license quota for "Class A" intoxicating liquor licenses shall be one license for each 750 population of the City or fraction thereof. For the purpose of this paragraph, "population" means the number of inhabitants of the City as determined by the last decennial federal census.

2. "Class B" Intoxicating Liquor Licenses. The license quota for "Class B" intoxicating liquor licenses shall be the number as provided in §125.51(4), Wis. Stats.

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

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

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

(6) SEARCH OF LICENSED PREMISES. It shall be a condition of any license issued hereunder that the licensed premises may be entered and inspected at any reasonable hour by any police officer of the City without a warrant, and the application for a license hereunder shall be deemed a consent to this provision. Any refusal to permit such inspection shall automatically operate as a revocation of any license issued hereunder and shall be deemed a violation of this section.

(7) POSTING LICENSES. Licenses or permits issued under this section shall be posted and displayed as provided in §§125.04(10), Wis. Stats., and any licensee or permittee who shall fail to post his license or permit as therein required shall be presumed to be operating without a license.

(8) REGULATION OF LICENSED PREMISES. (a) Sale to Underage Persons Restricted. No alcoholic beverage shall be sold, dispensed, given away, or furnished to any underage person unless he is accompanied by a parent, guardian, or spouse who has attained the legal drinking age.

(b) 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 for which used.

(9) REVOCATION AND SUSPENSION OF LICENSES. (a) Procedure. Except as hereinafter provided, the provisions of §125.12(2) and (3), Wis. Stats., shall apply to proceedings for the revocation or suspension of all licenses or permits granted under this section. Revocation or suspension proceedings may be instituted by the Council upon its motion by the adoption of a resolution.

(b) Automatic Revocation. Any license or permit issued under the provisions of this section shall stand revoked without further proceedings upon the conviction of a licensee or permittee or his employee, agent, or representative of a second offense under this section or Chs. 125 or 139, Wis. Stats., or any other State or Federal liquor or fermented malt beverage law, or any felony.

(c) Repossession of License or Permit. Whenever any license or permit under this section shall be revoked or suspended by the Council, Mayor, Chief of Police, or action of any court or par. (b) above, the Clerk-Treasurer shall notify the licensee or permittee of such suspension or revocation and shall notify the Chief of Police, who shall take physical possession of the license or permit wherever it may be found and file it in the Clerk-Treasurer's office.

(10) UNDERAGE PERSON; PRESENCE IN PLACES OF SALE. (a) Restrictions. Pursuant to §125.07(3), Wis. Stats., an underage person not accompanied by his parent, guardian, or spouse who has attained the legal drinking age may not enter or be on any premises for which a license or permit for the retail sale of alcoholic beverages has been issued, for any purpose except the transaction of business pertaining to the licensed premises with or for the licensee or his employee. The business may not be amusement or the purchase, receiving, or consumption of edibles or beverages or similar activities which normally constitute activities of a customer of the premises.

(b) Exceptions. Paragraph (a) above shall not apply to:

1. An underage person who is a resident, employee, lodger, or boarder on the licensed premises.
2. An underage person who enters a "Class A" premises for the purpose of purchasing edibles and soft drinks and immediately thereafter leaves such premises.
3. Hotels, drug stores, grocery stores, bowling alleys, athletic fields, or stadiums owned by a county or municipality.
4. Ski chalets, golf clubhouses, curling clubs, and private tennis clubs.
5. Licensed restaurants where the principal business is that of a restaurant.
6. A person who is at least 18 years of age and who is working under a contract with the licensee to provide entertainment for customers on the premises.
7. An underage person who enters on Class "B" or "Class B" premises on dates specified by the licensee when no alcoholic beverages will be consumed, sold, or given away. The licensee shall notify the Police Department of such specified dates; unless all alcohol beverages are stored in a locked portion of the premises, the licensee or a licensed operator must be on the premises at all times.
8. (Ord. #99-2) An underage person who enters or remains in a room on "Class B" or "Class B" licensed premises separate from any room where alcohol beverages are sold or served, if no alcohol beverages are furnished, present or consumed by any person in the room where the underage person is present. The Chief of Police or his designee shall issue to the licensee a written authorization permitting underage persons to be present under this subdivision on the date specified in the authorization after making a determination that the presence of underage persons on the licensed premises will not endanger their health, welfare or safety or that of other members of the community. The licensee shall obtain a separate authorization for each date on which underage persons will be present on the premises.

(11) UNDERAGE PERSON; CONSUMPTION AND POSSESSION OF ALCOHOL BEVERAGES. (a) Restrictions. Pursuant to §125.07(4)(b) and (bm), Wis. Stats., no underage person not accompanied by a parent, guardian, or spouse who has attained the legal drinking age may knowingly possess or consume alcoholic beverages.

(b) Exceptions. An underage person may possess alcoholic beverages if employed by any of the following:

1. A brewer.
2. A fermented malt beverages wholesaler.
3. A permittee other than a Class "B" or "Class B" permittee.
4. A facility for the production of alcohol fuel.
5. A retail licensee or permittee under the conditions specified in §§125.32(2) or 125.68(2), Wis. Stats., or for delivery of unopened containers to the home or vehicle of a customer.

(c) Selling or Serving Alcohol Beverages. Pursuant to §§125.32(2) and 125.68(2), Wis. Stats., any underage person who is at least 18 years of age may sell or serve alcoholic beverages on any Class A or Class B premises, provided that such underage person is under the immediate supervision of the licensee, agent or manager, or a licensed operator, who is on the premises at the time of such sale or service.

11.03 CIGARETTE RETAILER LICENSE. (Am. Ord. #99-6) No person shall sell cigarettes in the City without first obtaining a license from the Clerk-Treasurer. The provisions of §134.65, Wis. Stats., are hereby adopted and made a part of this section by reference. The license fee shall be \$25 per year or fractional part thereof.

11.04 DIRECT SELLERS, TRANSIENT MERCHANTS, AND SOLICITORS. (1) DIRECT SALES AND SOLICITATIONS; REGISTRATION REQUIRED. It shall be unlawful for any direct seller, transient merchant, or solicitor to engage in direct sales or solicitations within the City without being registered and licensed for that purpose as provided herein.

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

(b) Transient Merchant. Any person, firm or corporation,

whether as owner, agent, consignee or employee, whether a resident of the City or not, who engages in a temporary business of selling and delivering goods, wares, and merchandise within said city, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, trailer, tent, railroad boxcar or boat, a public room in hotels, lodging houses, apartments, shops, or any street, alley or other places within the City for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction, provided that such definition shall not be construed to include any person, firm or corporation who, while occupying such temporary location, does not sell from stock, but exhibits samples for the purpose of securing orders for future delivery only. The person, firm, or corporation so engaged shall not be relieved from complying with the provisions of this section merely by reason of associating temporarily with any local dealer, trader, merchant, or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader or auctioneer.

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

(d) Goods. Personal property of any kind and includes goods provided incidental to services offered or sold.

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

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

(g) Applicant. Each individual applying for registration and licensing as a direct seller, transient merchant, or solicitor.

(h) Registrant. Each individual registered by the Clerk-Treasurer and to whom a license has been issued.

(3) EXEMPTIONS. (a) The following shall be exempt from all provisions of this section:

1. Any person delivering newspapers, fuel, dairy products, or bakery goods to regular customers on established routes.
2. Any person selling goods at wholesale to dealers in such goods.
3. Any farmer or truck gardener selling agricultural products of the farm or garden occupied or cultivated by such person.
4. Any permanent merchant or employee thereof who takes orders away from the established place of business for goods regularly offered for sale by such merchant within this county and who delivers such goods in their regular course of business.
5. Any person who has an established place of business where the goods being sold are offered for sale on a regular basis and in which the buyer has initiated contact with and specifically requested a home visit by said person.
6. 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 a prospective customer.
7. Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law.

(b) Charitable organizations registered with the Wisconsin Department of Regulation and Licensing pursuant to §440.41, Wis. Stats., shall be exempt from the requirements set forth in subs. (4)(a), (4)(c) and (6) if the organization has provided the individual representing it with credentials stating the name of the organization, the name of the representative, and the purpose of the solicitation and provided, further, that said individuals provide the Clerk-Treasurer with the following information:

1. The individual's name and permanent address.

2. The name and address of the organization represented.
3. The name and address of the officers or directors of the organization.
4. The nature of the sales or solicitations.
5. Proposed dates and times of sales or solicitations.

A license operative for the dates provided to the Clerk-Treasurer shall be issued without charge upon compliance with the foregoing. The Clerk-Treasurer shall then forward the information and notice of the issuance of a license to the Chief of Police.

(c) Any religious organizations for which there is provided proof of tax-exempt status pursuant to §501(c)(3) of the United States Internal Revenue Code shall be exempt from the requirements set forth in subs. (4)(a), (4)(c) and (6). The provisions of sub. (3)(b) above shall be applicable to such organizations.

(d) Any veteran who holds a special state license pursuant to §440.51, Wis. Stats., shall be exempt from the provisions of subs. (4) and (6) provided that such veteran provides the Clerk-Treasurer with the following information:

1. The veteran's name and permanent address.
2. The nature of the sales or solicitations.
3. Proposed dates and times of sales or solicitations.

The Clerk-Treasurer shall then forward the above information to the Chief of Police.

(4) REGISTRATION REQUIREMENTS. (a) Applicants for licenses must complete and return to the Clerk-Treasurer a registration form furnished by the Clerk-Treasurer which shall require the following information:

1. Name, permanent address, telephone number, and temporary address, if any.
2. Age, height, weight, and color of hair and eyes.
3. Name, address, and telephone number of the person, firm, association, or corporation that the direct seller represents or is employed by or whose merchandise is being sold.

4. Temporary address and telephone number from which sales or solicitations will be conducted, if any.
5. Nature of sales or solicitations to be conducted and a brief description of the goods and/or services offered.
6. Proposed dates and times of sales or solicitations.
7. Proposed method of delivery of goods, if applicable.
8. Make, model, and license number of any vehicle to be used by the applicant in the conduct of sales or solicitations.
9. Last 3 cities, villages, and towns where the applicant conducted similar sales or solicitations.
10. Place where the applicant can be contacted for at least 7 days after leaving this City.
11. Statement as to whether the applicant has been convicted of any crime or ordinance violation related to the applicant's sales or solicitation or other transient merchant activities within the last years, the nature of the offense, and the place of conviction.

(b) Applicants shall present the following items to the Clerk-Treasurer:

1. A driver's license or some other proof of identity as may be reasonably required.
2. A state certificate of examination and approval from the sealer of weights and measures where the applicant's business requires the use of weighing and measuring devices approved by state authorities.
3. A physician's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than 90 days prior to the date the application for the license is made.

(c) No application shall be processed until the application fee in the amount of \$15 has been paid to the Clerk-Treasurer to cover the cost of processing said application.

(d) No application shall be processed until the applicant signs a statement appointing the Clerk-Treasurer his agent

to accept service of process in any civil action brought against the applicant arising out of any sale, service performed, or solicitation by the applicant in connection with the direct sales or solicitation activities of the applicant in the event the applicant cannot, after reasonable effort, be served personally.

(e) **(Ord. #2013-01)** No application shall be processed if the dates of intended sales or solicitations coincide with the dates of any special event which is under the supervision and control of a local organization or business.

(5) INVESTIGATION; DENIAL OF APPLICATION. (a) Upon receipt of a completed registration form, the Clerk-Treasurer shall immediately refer it to the Chief of Police to make an investigation. The Police Chief or his designee shall complete the investigation and file a report with the Clerk-Treasurer within 48 hours.

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

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

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

3. The applicant failed to comply with any applicable provision of sec. (4) (b) above.

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

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

(6) REGISTRATION AND ISSUANCE OF LICENSE. (a) Upon compliance with the foregoing requirements, filing of a bond, if applicable, and payment of the license fee as hereinafter set forth, the Clerk-Treasurer shall register the applicant as a direct seller, transient merchant, or solicitor and issue a license to the applicant. The license shall be operative only during the days requested on the registration form.

(b) Such license shall contain the signature of the Clerk-Treasurer, the name and address of the direct seller, transient merchant or solicitor, the type of goods or services being sold or the nature of the solicitation, the dates during which the license is operative and the license number of any vehicle used for sales or solicitation.

(c) Registrants shall exhibit their license at the request of any citizen or police officer.

(d) Every applicant who intends to take sales orders and down payments for the later delivery of goods and services and is not a resident of Lafayette County, Wisconsin, or who is such a resident and represents a business or organization whose principal place of business is located outside the State of Wisconsin, shall file with the Clerk-Treasurer a surety bond for a term of one year from the date of issuance of the license, running to the City in the amount of \$5,000 with surety acceptable to the Mayor, conditioned that applicant comply with all applicable ordinances of this City and statutes of the State of Wisconsin regulating peddlers, canvassers, solicitors, and transient merchants. Such bond shall guarantee to any citizen of this City that all money paid as a down payment will be accounted for and applied according to the representations of the seller and that the property purchased will be delivered according to the representations of the seller. Action on such bond may be brought by the person aggrieved and for whose benefit, among others, the bond is given. The surety may, pursuant to a court order, pay the face amount of the bond to the Clerk of Courts in which suit is commenced and be relieved of all further liability.

(e) Every applicant shall pay a license fee of \$5 per day.

(7) REGULATION OF DIRECT SELLERS AND SOLICITORS. (a) Prohibited in Practices. 1. A direct seller or solicitor shall be prohibited from:

a. Calling at any dwelling or other place between the hours of 8:00 P.M. and 9:00 A.M. except by appointment.

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

c. Calling at the rear door of any dwelling place.

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

2. A direct seller or solicitor shall not misrepresent or make false, deceptive, or misleading statements concerning the quality, quantity, or character of any goods or services offered for sale, the purpose of his visit, his identity, or the identity of the organization he represents. A direct seller representing a charitable or religious organization shall specifically disclose what portion of the sale price of goods being offered will actually be used for the charitable or religious purpose for which the individual is soliciting. Said portion shall be expressed as a percentage of the sale price of the goods or services.

3. No direct seller or solicitor shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales or solicitations are made from vehicles, all traffic and parking regulations shall be observed. No direct seller or solicitor shall have any exclusive right to any location in the public streets. No direct seller or solicitor shall sell or solicit in any congested area or where the public will be impeded or inconvenienced. For the purpose of this section, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

4. No direct seller or solicitor shall make any loud noises or use any sound-amplifying device to attract customers or donors if the noise produced is capable of being plainly heard outside a 100-foot radius of the source.

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

(b) Disclosure Requirements. 1. After the initial greeting and before any other statement is made to a prospective customer or donor, a direct seller or solicitor shall expressly disclose his name, the name of the company or an

organization he is affiliated with, if any, and the identity of goods or services he offers to sell.

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

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

(8) REGULATION OF TRANSIENT MERCHANTS. The provisions of sub. 7(b)2. and 3. shall apply to transient merchants.

(9) RECORDS OF VIOLATIONS. The Chief of Police shall report to the Clerk-Treasurer all convictions for violations of this section and the Clerk-Treasurer shall note any such violation on the record of the registrant convicted. The Clerk-Treasurer shall note any complaint or report of an alleged violation made by a resident of this City or a police officer.

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

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

11.05 MOBILE HOMES AND MOBILE HOME PARKS. (1) DEFINITIONS.

(a) Mobile Home is that which is, or was, as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped, and used primarily for sleeping, eating, and living quarters, or is intended to be so used; and includes any additions, attachments, annexes, foundations, and appurtenances, except that a house trailer is not deemed a mobile home if the assessable value of such additions, attachments, annexes, foundations, and appurtenances equals or exceeds 50% of the assessable value of the house trailer.

(b) Unit means a mobile home unit.

(c) Mobile Home Park means any plot or plots of ground upon which 2 or more units, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.

(d) Space means a plot of ground within a mobile home park of not less than 4,000 square feet, designed for the accommodation of one auto and/or one mobile home unit.

(e) Person shall be construed to include an individual, partnership, firm, company, corporation, whether tenant, owner, lessee, licensee or their agent, heir or assign.

(f) Licensee means any person licensed to operate and maintain a mobile home park under this section.

(g) Park means mobile home park.

(2) PARKING PERMIT FEE. (a) There is hereby imposed on each owner of a nonexempt mobile home in the City a monthly parking permit fee determined in accordance with §66.058(3), Wis. Stats., which is hereby adopted by reference and made a part of this section as if fully set forth herein. It shall be the full and complete responsibility of the licensee to collect the proper amount from each mobile homeowner. Licensees shall pay to the Clerk-Treasurer such parking permit fees on or before the 10th of the month following the month for which such fees are due in accordance with the terms of this section and such regulations as the Clerk-Treasurer may reasonably promulgate.

(b) The owner of the land on which a mobile home is located outside of a mobile home park may collect the fee from the owner of the mobile home and, on or before January 10 and on or before July 10, shall transmit to the Clerk-Treasurer all fees owed for the 6 months ending on the last day of the month preceding the month when the transmission is required.

(c) Licensees of mobile home parks and owners of the land on which are parked any nonexempt mobile homes shall furnish information to the Clerk-Treasurer and Assessor on such homes added to their park or land within 5 days after arrival of such home on forms furnished by the Clerk-Treasurer in accordance with §66.058(3)(c) and (e), Wis. Stats.

(d) Owners of nonexempt mobile homes, upon receipt of notice from the Clerk-Treasurer of their liability for the monthly parking permit fee shall remit to the Clerk-Treasurer a cash deposit of \$25 to guarantee payment of such fees when due. It shall be the full and complete responsibility of the licensee of a mobile home park to collect such cash deposits and forward them to the Clerk-Treasurer. Upon receipt of a notice from the owner or licensee that the nonexempt mobile home has been or is about to be removed from the City, the Clerk-Treasurer shall apply said cash deposit to reduce any monthly parking permit fees for which said owner is liable and refund the balance, if any, to said owner.

(3) MOBILE HOME PARK LICENSE. (Am. Ord. #99-5) No person shall establish or operate upon property owned or controlled by him within the City a mobile home park without having first secured a license therefor from the Clerk-Treasurer. A license under this section shall expire on June 30. The two-year nonreturnable and non-prorated license fees are as follows:

- (a) for a mobile home park with 1 to 25 sites, \$200.00.
- (b) for a mobile home park with 26 to 50 sites, \$270.00.
- (c) for a mobile home park with 51 to 100 sites, \$300.00.
- (d) for a mobile home park with more than 200 sites \$350.00.

11.06 REGULATION AND LICENSING OF DOGS. (1) DEFINITIONS. For purposes of this section, certain words and terms are defined as follows:

- (a) Owner. Any person or group of persons owning, keeping, or harboring a dog.
- (b) Kennel. The commercial business of breeding, buying, selling, or boarding dogs.
- (c) At Large. Any dog shall be deemed to be at large when it is off the property of its owner and not under the control of a competent person.

(d) Restraint. A dog is under restraint within the meaning of this section if it is controlled by a leash, at "heel" beside a competent person and obedient to that person's commands, on or within a vehicle being driven or parked on the streets, or within the property limits of its owner or keeper.

(e) Spayed Female Dog. Any female dog which has been operated upon to prevent conception.

(f) Animal Shelter. Any premises designated by the Council for the purpose of impounding and caring for all animals found running at large in violation of this section.

(g) Exposed to Rabies. An animal that has been exposed to rabies within the meaning of this section if it has been bitten by, or come in contact with, any animal known to have been infected with rabies.

(2) ENFORCEMENT. The provisions of this section shall be enforced by police officers.

(3) LICENSING OF DOGS. (Ord. #03-2017)(a) License Required. It shall be unlawful for any person in the City to own, harbor, or keep any dog more than 5 months of age without complying with the provisions of §§174.05 through 174.10, Wis. Stats., relating to the listing, licensing, and tagging of the same. In addition to the dog license tax imposed under §174.05(2) and (3), Wis. Stats., there is hereby imposed a City dog license tax, payable to the Clerk-Treasurer, in the amount of:

11. \$6 for spayed or neutered dog.

2. \$12 for others per year for all dogs required to be licensed under the Wisconsin Statutes.

(b) Lost License Tag. In the event that a metallic license tag issued for a dog shall be lost, the owner may obtain a duplicate tag from the Clerk-Treasurer upon the payment of \$1.00.

(c) Change of Ownership. If there is a change in ownership of a licensed dog or kennel during the license year, the new owner may have the current license transferred to his name upon the payment of a transfer fee of \$1.00.

(d) Transfer Prohibited. No person shall use for any animal a license receipt or license tag issued for another animal.

(e) Late Fees. The Clerk-Treasurer shall assess and collect a late fee of \$5 from every owner of a dog 5 months of age or older if the owner failed to obtain a license prior to April 1 of each year or within 30 days of acquiring ownership of a licensable dog, or if the owner failed to obtain a license before the dog reached licensable age.

(f) Kennel License Option. The owners of kennels may opt to pay a kennel license fee of \$25 in lieu of the fees provided in par. (e) and the Clerk-Treasurer shall issue tags for each dog owned by the kennel owner, as provided in §174.06, Wis. Stats.

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

(5) DOGS RUNNING AT LARGE AND UNTAGGED DOGS. (a) Dog Running at Large. A dog is considered to be running at large if it is off the premises of its owner and not under the restraint of the owner or some other person as defined in sub. (1)(d).

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

(c) Dog Subject to Impoundment. Any officer shall attempt to capture and restrain any dog running at large and any untagged dog.

(d) Penalties. If the owner of a dog permits the dog to run at large or be untagged, the owner shall forfeit \$5 plus costs for the first offense, \$10 plus costs for the second offense, and an additional \$5 for each subsequent offense. If the dog is unlicensed, the above penalties shall be doubled.

(6) CONFINEMENT OF CERTAIN DOGS. (a) The owner shall confine within a building or secure enclosure, every fierce, dangerous or vicious dog and not take such dog out of such building or secure enclosure unless such dog is securely leashed and/or under adequate control.

(b) Every female dog or cat in heat shall be kept confined in a building or secure enclosure or in a veterinary hospital or boarding kennel in such a manner that such female dog or cat cannot come in contact with another dog or cat, except for intentional breeding purposes.

(c) Any animal described in the foregoing paragraphs which is found at large shall be impounded by police officers.

(7) DUTY TO REPORT DOG BITE. Every person, including the owner or person harboring or keeping a dog, who knows that a dog has bitten any person, shall immediately report such fact to the Health Officer.

(8) IMPOUNDING AND DISPOSITION OF DOGS. (a) Impounding of Dogs. Any police officer or other person restraining a dog running at large shall take such dog to the City Animal Shelter. The boarding fee for impounded dogs shall be \$5 for the first day and \$2 daily thereafter. The police shall attempt to identify and notify the owner.

(b) Release of Dog to Owner or Representative. The caretaker of the Animal Shelter or police officer may release the dog to the owner or his representative if:

1. The owner or representative presents evidence of ownership and gives his name and address,
2. Presents evidence that the dog is licensed and vaccinated against rabies, and
3. Pays the dog's boarding fee.

(c) Release of Dog to Person Other Than Owner. If the owner of the dog is unknown or does not reclaim the dog within 7 days, the caretaker of the Animal Shelter may release the dog to a person other than the owner if such person:

1. Gives his name and address; and
2. Signs a statement agreeing to license the dog and have the dog vaccinated against rabies.

(d) Disposition of Dog or Use for Humane Purposes. If the dog is not released to the owner or other person in 7 days, the Police Chief may dispose of the dog as provided in §174.13, Wis. Stats., or dispose of the dog in a proper and humane manner.

(9) INVESTIGATION. For the purpose of discharging the duties imposed by this section and to enforce its provisions, any police officer is empowered to enter upon any premises upon which a dog is kept or harbored and to demand the exhibition by the owner of such dog or the license for such dog. It is further provided that a police officer may enter the premises where any animal is kept in a reportedly cruel or inhumane manner and demand to examine such animal and to take possession of such animal when, in his opinion, it requires removal from the premises.

(10) INTERFERENCE PROHIBITED. No person shall interfere with or hinder any police officer in the performance of any duty of such agent or seek to release any animal in the custody of the caretaker of the Animal Shelter, except as herein provided.

(11) RECORDS REQUIRED. (a) It shall be the duty of the caretaker to keep, or cause to be kept, accurate and detailed records of the licensing, impoundment, and disposition of all animals coming into its custody. Such records shall be open to public inspection.

(b) It shall be the duty of the Police Chief to keep, or cause to be kept, accurate and detailed records of all bite cases reported to him and his investigation of same.

(c) It shall be the duty of the caretaker or Police Department to keep, or cause to be kept, accurate and detailed records of all monies coming into their possession, which records shall be open to inspection at reasonable times by such persons responsible for similar records of the City, and shall be turned into the Clerk-Treasurer quarterly.

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

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

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

(c) Penalty. Any person violating any other provision of this

section shall be subject to a penalty as provided in sec. 20.04 of this Code.

11.065 REMOVAL OF ANIMAL DEFECATION (Ord. #05-2001). (1) An owner or keeper of any animal shall not allow the animal to defecate on any public or private property, within the City, other than the premise of the owner or keeper of the animal unless such defecation is immediately removed. The foregoing provisions of this paragraph (1) shall not apply to any person being assisted by a seeing-eye dog.

(2) All pens, yards, structures, or areas where animals are kept shall be maintained in a reasonably safe and sanitary condition, which maintenance include the regular removal and disposal of defecation, so as not to attract insects or rodents, or to become unsightly or cause objectionable odors, or to result in any other condition recognized as a nuisance by this municipal code by any other common or statutory law.

11.07 KEEPING OF VICIOUS DOGS REGULATED. (1) DEFINITIONS. The terms used herein shall be defined as follows:

(a) Vicious Dog. 1. Any dog with a propensity, tendency, or disposition to attack, cause injury, or otherwise endanger the safety of human beings or other domestic animals as evidenced by its habitual or repeated chasing or snapping, or barking and/or snarling in a threatening manner.

2. Any dog which attacks a human being or another domestic animal without provocation.

3. Any dog owned or harbored primarily or in part for the purpose of dog-fighting, or any dog trained for dog-fighting.

(2) REQUIREMENTS AND PROHIBITIONS. (a) Leash and Muzzle. No person owning, harboring, or having the care of a vicious dog may suffer or permit such dog to go outside its kennel or pen unless the dog is securely leashed with a leash no longer than 4 feet in length. No person may permit a vicious dog to be kept on a chain, rope, or other types of leash outside its kennel or pen unless a person is in physical control of the leash. The dog may not be leashed to inanimate objects such as trees, posts, and buildings. A vicious dog on a leash outside the dog's kennel shall be muzzled by a muzzling device sufficient to prevent the dog from biting persons or other animals. A vicious dog shall not be required to be muzzled when shown either in a sanctioned American Kennel Club show or upon prior approval of the Police Chief.

(b) Confinement. All vicious dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as provided in par. (a) above. The pen, kennel, or structure shall have secure sides and a secure top attached to all sides. A structure used to confine a vicious dog shall be locked with a key or combination lock when the dog is within the structure. The structure shall have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than 2 feet. All structures erected to house vicious dogs shall comply with all zoning and building regulations of the City. All structures shall be adequately lighted and ventilated and kept in a clean and sanitary condition.

(c) Confinement Indoors. No vicious dog may be kept on a porch, patio, or in any part of a house or structure that would allow the dog to exit the building on its volition. No vicious dog may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.

(d) Prohibited in Multiple Dwellings. No vicious dog may be kept within any portion of any multiple dwelling.

(e) Signs. All owners, keepers, or harborers of vicious dogs shall, within 15 days of the effective date of this section, display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog." A similar sign is required to be posted on the kennel or pen of the dog.

(f) Insurance. All owners, keepers, or harborers of vicious dogs shall, within 30 days of the effective date of this section, provide proof to the Police Chief of public liability insurance in a single incident amount of \$50,000 for bodily injury to or death of any person or for the damage to property owned by any person which may result from the ownership, keeping, or maintenance of vicious dogs. The insurance policy shall provide that no cancellation of the policy will be made unless a 10-day written notice is first given to the Police Chief. The owner or custodian of the dog shall produce evidence of the required insurance upon request of a law enforcement officer. This paragraph does not apply to dogs kept by law enforcement agencies.

(3) VIOIOUS DOG DETERMINATION. The Police Chief shall investigate every dog complaint and make a determination as to

whether or not such dog is "vicious," as defined in sub. (1) above. In the event the Police Chief makes a determination that a dog is "vicious," he shall so inform the owner, keeper, or harbinger of such dog and provide such person with a copy of this section.

(4) APPEAL OF VICIOUS DOG DETERMINATION. Any person aggrieved by the determination of the Police Chief, as provided in sub. (3) above, may appeal such determination, as provided in Ch. 6 of this Code.

(5) COMPLIANCE. Within 10 days of the determination that a dog is vicious, as provided in sub. (3) above, or 10 days after an unsuccessful appeal under sub. (4) above, the owner of a vicious dog shall either comply with all provisions of this section or dispose of such dog.

(6) DISPOSITION OF VICIOUS DOG. Any vicious dog which attacks a human being or domestic animal may be ordered destroyed by a police officer or humane officer when, in the judgment of a court of competent jurisdiction, the dog represents a continuing threat of serious harm to human beings or domestic animals.

(7) PENALTY. Any person who violates any provision of this section shall, upon conviction, be subject to the payment of a forfeiture, as provided in sec. 25.04 of this Code. A separate offense shall be deemed committed on each day on which a violation of this section occurs or continues.

11.08 FUND DRIVES. (1) REGISTRATION REQUIRED. Any person who shall solicit or request anything of value for a purported charitable, patriotic, philanthropic, social service, welfare, benevolent, educational, or civic purpose shall register with the Board of Trustees of the Darlington United Way, Inc.

(2) EXEMPTIONS. This section shall not apply to solicitations conducted among the members of any association or organization by the members thereof where no remuneration is paid for making such solicitations, or if the solicitations are in the form of collections or contributions at regular assemblies or services of any associations or organization.

(3) APPLICATION FOR REGISTRATION. Application for registration shall be made on a form supplied by the Clerk-Treasurer. Upon receiving an application for registration, the Clerk-Treasurer shall forthwith forward the application to the Board of Trustees of the Darlington United Way, Inc. for action thereon.

(4) INVESTIGATION. The Board of Trustees of the Darlington United Way, Inc. may cause such investigation of the applicant to

be made as shall be necessary to protect the residents of the City from fraud, deception, and other wrongdoing by the applicant. Toward this end, the Board may require such information from the applicant as shall be reasonably necessary.

(5) REGISTRATION FEE. At the time of applying for registration, the applicant shall accompany the application with \$10 which shall cover the cost of investigation and registration.

(6) EXPIRATION OF REGISTRATION. Registration under this section shall entitle the applicant to solicit for the purposes itemized in sub. (1) above until the next succeeding January 1.

(7) LIMITATION ON SOLICITATIONS. The applicant, upon being registered, shall indicate in writing to the Board, the period within which he wishes to solicit which shall not exceed 30 days except upon special permit granted by the Board.

(8) DENIAL OF REGISTRATION. If the Board refuses to register the applicant, the applicant may appeal the decision, pursuant to Ch. 6 of this Code.

(9) LIMITATION ON ADMINISTRATIVE EXPENSES. The total cost of any administrative expenses incurred in any particular solicitation authorized hereunder shall not exceed 25% of the total receipts except upon showing of special circumstances. The applicant and any person who participates in any disbursement in excess of such amount shall be guilty of violating this section.

(10) REVOCATION. The Board may revoke any registration hereunder for violation by any solicitor, his principal or agent of any provision of this section or any ordinance of the City or other conduct which renders future solicitations inimical to the public health, the safety of, welfare, or for fraud or misrepresentation in solicitation hereunder.

(11) REPORTS BY SOLICITORS. Within 15 days after completion of a solicitation hereunder, a solicitor shall submit a written report to the Board showing the receipts from the solicitation, the itemized cost of solicitation, and the disposition of the balance of such receipts.

(12) UNITED CAMPAIGNS. The Board of Trustees of the Darlington United Way, Inc. shall encourage registrants hereunder to conduct united campaigns so as to minimize any disturbance of citizens of the City by repeated and continuous solicitation campaigns. Upon application for registration, the Board shall attempt to coordinate the solicitor's proposed campaign with other existing registrants. The determination as to the allocation of

funds obtained through united campaigns shall be determined by the registrants who have joined together for the purposes of solicitation. Registration hereunder shall be denied or revoked if the applicant or solicitor shall arbitrarily refuse to coordinate his solicitation campaign with other registrants under this section.

11.09 JUNK DEALERS. (1) LICENSE REQUIRED. No person within the City shall keep, conduct or maintain any building, structure, yard or place for keeping, storing or piling in commercial quantities, whether temporarily, irregularly or continually, or for the buying or selling at retail or wholesale or dealing in any old, used or second-hand materials of any kind, including cloth, rags, clothing, paper, rubbish, bottles, rubber, iron, brass, copper or other metal, furniture, used motor vehicles or the parts thereof, or other article which from its worn condition renders it practically useless for the purpose for which it was made and which is commonly classed as junk, whether with a fixed place of business or as an itinerant peddler, without first having obtained and paid for a license as hereinafter provided. One carrying on the aforesaid business shall be referred to herein as "junk dealer."

(2) EXCEPTION. No license shall be required for the storage of inoperable or wrecked motor vehicles stored on the premises of a business engaged in automotive sales and service located in a properly zoned district for a period not exceeding 30 days.

(3) APPLICATION. Application for such license shall be made to the Clerk-Treasurer on a form provided by him.

(4) LICENSE FEE. The license fee shall be \$100 per year or any fraction thereof, said year to commence on July 1 and end on June 30. In addition, there shall be an investigation and inspection fee of \$200 for the initial license.

(5) INSPECTION REQUIRED. The Clerk-Treasurer shall report such application to the Chief of Police and the Building Inspector, who shall inspect or cause to be inspected such premises to determine whether it complies with all laws, ordinances, rules, and regulations. Said premises and all structures thereon shall be so situated and constructed that the business of junk dealer may be carried on in a sanitary manner, shall contain no fire hazards, and shall be arranged so that thorough inspection may be made at any time by the proper health, fire, building, and police authorities.

(6) REFERRAL TO PLAN COMMISSION. The application shall first be submitted to the Plan Commission for a hearing to determine the

suitability of the site for the business proposed thereon. The Plan Commission may recommend conditions for granting the license.

(7) REFERRAL TO COUNCIL. The application, together with the recommendation of the Plan Commission, shall be referred to the Council which may grant, grant with conditions, or deny the license.

(8) REVOCATION. Upon complaint being made in writing by any 3 residents or any official of the City to the Council that any licensee hereunder has violated any of the provisions of this section, the Council shall summon such licensee to appear before it at the time specified in the summons, which shall be not less than 3 days after the date of the service thereof, to show cause why his license shall not be revoked or suspended. The Council shall thereupon proceed to hear the matter and if it finds that the allegations of the said complaint are true, may revoke or suspend the license of such person. The provisions hereunder shall not be effective unless the licensee has received notice from the Building Inspector that a complaint has been filed with the Council as to the operation of his premises and such licensee has been given a reasonable time to correct the condition complained of or to otherwise satisfy such complaint.

11.10 PENALTY. Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in sec. 25.04 of this Code.

11.11 SHORT-TERM RENTAL PERMIT. (1) Licenses and Permits.

(a) Permit required. No person may maintain, manage or operate a short-term rental in the City of Darlington for more than 10 nights total within a 365-day period, without a Short-Term Rental Permit. "Short-term rental" shall mean a residential dwelling that is offered for rent or a fee and for a duration of less than 29 consecutive days. It does not include private boarding or rooming houses not accommodating tourists or transients, or bed and breakfast establishments. Every short-term rental shall be operated by a property owner or property manager.

(b) Each short-term rental is required to have the following licenses and permits:

1. The property owner must obtain Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) license as a Tourist Rooming House (TRH), pass all inspections, and pay all fees as required by DATCP.

- a. Each license issued by the DATCP expires June 30 of each year.
- b. License dates extend from July 1 of one year through June 30 of the following year.
- c. If a license is granted after April 1 of a license year, that license will extend to June 30 of the following year. Example: If a business is licensed by DATCP on April 1, 2024, then its license will expire June 30, 2025.
- d. Renewal fees for existing establishments shall be submitted to DATCP before June 30 each year.

2. The property owner must register with the Wisconsin Department of Revenue (DOR) for a license to collect taxes and adhere to all DOR regulations regarding said license.

3. The property owner must obtain a Short-Term Rental Permit from the City of Darlington for each short-term rental property. All applications for a Short-Term Rental Permit shall be filed with the City Clerk on a form provided by the City must be filed by the property owner or authorized agent.

(c) Short-Term Rental Permit Application.

1. All applications for a Short-Term Rental Permit shall be filed with the City Clerk on a form provided by the City must be filed by the property owner or authorized agent. No permit shall be issued unless the completed application form is accompanied by payment of the required Short-Term Rental Permit fee.

2. Each application shall include the following information and documentation for each short-term rental:

- a. Identify the property owner with contact information including mailing address, physical address, email address and 24-hour phone number.
- b. Identify additional contact persons with contact information in the event the property owner cannot be reached.
- c. Copy of building floor plan including maximum occupancy and onsite parking.
- d. Proof of property and liability insurance.
- e. Certification from the property owner or property manager that the short-term rental property meets the requirements of the regulations in this Section.
- f. Proof of DATCP TRH license, DOR license, and fulfillment of any other applicable legal obligations.

3. Permit Terms and Filing Date. Each Permit shall run for a term of one (1) year and will run concurrently with the TRH license issued by DATCP. The filing fee shall be paid upon filing of the application. Any application which does not include all the information and documentation shall not be considered complete. The Clerk shall verify the application and all documents and records with the assistance of City staff, contractors, and inspectors that the application is complete and meets the permit requirements as stated in this section. The City may request further documentation records to verify the application meets permit requirements and the application is complete.

4. Application Review Procedure. When the Clerk is satisfied that the application is complete and determines that the application meets the requirements of this Section, the City Clerk may approve the application. If the City Clerk, in consultation with the City staff, contractors, and inspectors, determines that the application does not meet the requirements of this Section, the City Clerk may deny the application.

5. Permit Renewal. Each application for a renewal of a permit shall include updated information for the documentation on file with the City Clerk and payment of the applicable fee. The City Clerk shall verify that the information provided on the renewal application is complete and in accordance with the requirements of this Section. The City Clerk may request reports from the Police Department regarding any complaints received, calls for service or actions taken regarding the short-term rental properties. The City Clerk shall issue renewal permit within 30 days of the filing of the application unless the information provided is incomplete or otherwise not in compliance with the requirements of this Section and/or the reports from the Police Department indicate that there are complaints or actions involving the property. If the City Clerk finds that the permit should not be renewed, the City Clerk shall deny the renewal.

6. Fees. The application fee for a Short-Term Rental Permit shall be \$100.00, and any subsequent application for a permit renewal shall be \$100.00. There shall be no proration for late applications.

7. Nontransferable. Any change in property ownership terminates a current Short-Term Rental Permit. A new property owner must submit a new application with the applicable fee. A permit may not be transferred from one

short-term rental property to another short-term rental property.

(2) Regulations. A Short-Term Rental shall comply with all the following:

(a) All Short-Term Rentals shall be subject to payment of the City of Darlington's room tax at the current applicable rate. Property owners or property managers holding the short-term rental permit for a residential dwelling unit are responsible for complying with all room tax requirements as set forth at section 3.06 of this Code.

(b) The property owner's or authorized representative's contact information must be kept current and on file with the City Clerk. A local contact person who resides within 20 miles of the City of Darlington shall be identified. This person will be responsible for managing the property and respond to questions/concerns in the absence of the property owner.

(c) The use of a camper, tent or other temporary lodging arrangement used in conjunction with the residence is prohibited.

(d) The maximum number of overnight guests in any Short-Term Rental residential dwelling unit shall not exceed two (2) persons per bedroom plus two (2) additional persons per unit. The City may establish a lower occupancy limit for the unit based on the number of bedrooms and square footage of the habitable space with the unit.

(e) The property owner is responsible for obtaining property and liability insurance coverage for commercial risks.

(f) The property owner is responsible for maintaining property in safe and healthy condition.

1. The exterior of the structure shall be maintained by the owner in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

2. The interior of the structure and equipment therein shall be maintained by the owner in good repair, and structurally sound. Every owner of a structure shall maintain, in a clean and sanitary condition, the shared or public areas of the structure.

3. Each unit must be equipped with functional smoke detectors, fire extinguishers and carbon monoxide

detectors in accordance with the requirements of Chapter SPS 362 of the Wisconsin Administrative Code.

(a) Each short-term rental shall have established property rules that will be provided to guests with each rental term. The property rules shall establish guidelines that the tenants must comply with regarding, but not limited to, off-street parking, garbage collection, occupancy limits, excessive noise, orderly conduct, the prohibition of fireworks, and the prohibition of recreation vehicle/camping use. Guests of the short-term rental must comply with existing City ordinances.

(b) No signage advertising the short-term rental is permitted on site.

(c) The property owner shall be responsible for providing adequate trash and recycling receptacles for use by guests. Property owner shall be responsible for maintaining cleanliness of property, removal of trash, mowing the lawn and removal of snow as defined within the City ordinances.

(d) Not less than two (2) onsite off-street parking spaces for every four (4) occupants based upon maximum occupancy.

(e) Compliance with all applicable state, county, and local codes and regulations is required. Short-Term Rentals must be located in areas zoned for residential use in compliance with the City of Darlington zoning code.

(3) Penalties. (a) Upon the occurrence of three (3) documented violations of the regulations within a calendar year, failure to maintain of required licenses/permits, or failure to make payment on any City room tax, the owner shall be subject to a fine and automatic revocation of the Short-Term Rental Permit. The owner will be required to reapply for any future permit.

(b) Any violations of City of Darlington ordinances will be prosecuted to the extent allowed by law.

11.12 VENDOR'S PERMIT. (1) Permit required. Except as permitted in Section (2), no person shall engage in the sale of any food or other items on public streets, in any public park or on any other public property, without first receiving from the Clerk-Treasurer a permit to do so.

(2) Permit Not Required. The following are not required to have a permit issued or comply with any other requirement or prohibition under this section:

LICENSES AND PERMITS 11.12(2)(a)

(a) A person selling only bottled or canned water or soda, lemonade or similar beverages and baked goods adjacent to their residence, and no other items.

(b) A person who operates a business establishment shall not be required to obtain a permit to place items sold at his or her business establishment on the sidewalk adjacent to his or her business.

(c) A person participating in a farmer's market and who is selling only items that are grown or produced by the seller or the seller's immediate family.

(d) A person or group of individuals who are vending on behalf of a non-profit, religious, government or civic organization.

(e) A person participating in a City Council, Main Street, Chamber or other broad-based special sanctioned event that has set perimeters, including, but not limited to, event hours, and location.

(1) Permit Categories and Fees. The following permits shall be made available to vendors upon submittal of the required fee, review of a complete and compliant application, and recommendation of the Police Chief, or designee, as required in subsection 3.(c). A vendor must submit contact information and photo identification, valid copies of its applicable permits and proof of insurance as required herein along with the City provided application. The permit shall be displayed in view during operation hours.

(a) Annual Permit. Annual permits shall be issued on the 1st day of July each year or thereafter when applied for, and shall expire on the 30th day of June following its issuance. The fee for an annual permit shall be \$30.00.

(b) Daily Permit. Daily permits shall be issued for up to 3 consecutive days and the permit shall set forth the date of expiration. The initial fee for a daily permit shall be \$15.00 per for the first day, and \$5.00 per day for each subsequent day.

(c) Background Check Required. Upon receipt of an application and fee, the City Clerk-Treasurer shall refer the application to the Police Chief, or specified designee. The Police Chief, or designee, shall make an investigation of the accuracy of the statements made in the application and determine whether the applicant has been convicted of a felony, misdemeanor, statutory violation punishable by forfeiture, or county or municipal ordinance violation in which the circumstances of the felony, misdemeanor, or other offense substantially relate to the circumstances of the permitted activity and, if so, the nature and date of the offense and the penalty assessed.

1. Non-Recommend-If, as a result of background check, the Police Chief, or designee, discovers that any representation on the application contains a material omission or inaccuracy, or the Police Chief, or designee, is of the opinion that the applicant is not a fit person to conduct such sales, the Police Chief, or designee, shall return the application to the City Clerk-Treasurer. Upon return of non-recommendation of an applicant, the City Clerk-Treasurer shall notify the applicant of the non-recommendation by the Police Chief, or designee, along with the reasons therefore. If the applicant contests the non-recommendation, the applicant may be heard by the Council who shall approve or disapprove the application. If the applicant does not contest the non-recommendation within 30 days of the notification of non-recommendation by the City Clerk-Treasurer, the application shall be denied.

2. Recommendation-If as a result of the background check, the Police Chief, or designee, is of the opinion that the applicant is a fit person to conduct such sales, the Police Chief, or designee, shall endorse on the application his/her approval and return the application to the City Clerk and the permit shall be approved.

(1) Prohibited and Required Acts.

(a) A vendor shall not:

1. Sell between the hours of 11:00 p.m. and 6:00 a.m. the following morning. This prohibition shall not apply during any other specific hours specified by the Common Council by an individual request for a daily permit.
2. Sell alcoholic beverages.
3. Block or restrict an individual's access to a business or residential doorway.
4. Block or restrict pedestrians on the public way.
5. Sell beverages in glass containers or glassware.
6. Make any loud noises, including that of unusually loud or noisy generators, or use any sound-amplifying device to attract customers if the noise produced is capable of being plainly heard outside a one hundred-foot radius of the source.
7. Be located in any other location than the City Festival Grounds.

(b) A vendor shall:

1. Obtain any other permit or permit necessary, including, but not limited to, sellers' permits and restaurant permits prior to applying for the City permit, which shall be furnished to the City, and adhere to the requirements of any such other permit.

2. Keep all perishable foods in a safe and sanitary condition.
3. Be present at the vending site at all times during which items are displayed or sold.
4. Remove all vending equipment, including carts, tables, apparatus and merchandise from the vending location during times when vending is not occurring.
5. Provide a trash receptacle of at least 10 gallons at the vending site for customer use.

(2) To hold a valid permit, the vendor must have in force adequate liability insurance and must agree to indemnify, defend, and hold the City, its employees and agents, harmless against all claims, liability, loss, damage, or expense incurred by the City as the result of any injury to or death of any person or damage to property caused by or resulting from the activities for which the permit is granted. As evidence of liability insurance, the applicant shall furnish a Certificate of Insurance, on a form acceptable to the City, evidencing the existence of commercial general liability insurance (including contractual liability insurance) naming the City, its employees and agents as additional insureds, with minimum limits of \$300,000.00 in the aggregate. The Certificate of Insurance shall provide 30 days' written notice to the City upon cancellation or nonrenewal or material change in the policy.

(3) Permits and Identifying Devices Not Transferable.
Permits and permit identifying devices shall be nontransferable except upon order of the Clerk-Treasurer.

(4) Sale of Unwholesome Food Prohibited. No vendor shall sell any food or food product that is unwholesome or tainted, or that is unclean, or that has been handled in an unclean manner, or has been exposed to unclean or contaminating things or conditions, or contrary to any rules and regulations adopted by the State or Lafayette County.

(5) Permit Suspension and Revocation.

(a) The Police Department may require any transient merchant to produce his or her permit for inspection. If any vendor does not have a permit, the Police Department may direct the transient merchant to stop operations, and may issue a citation to the violator or violators. If any vendor has a permit, but is in violation of the terms of his or her permit, the police may require the transient merchant to correct the violation. The police may issue a citation to the violator. If the vendor is unwilling or unable to immediately correct the violation, the police may

direct the transient merchant to stop operations, and may issue a citation to the violator. The Police Chief shall report all convictions resulting from violations of this section to the city Clerk-Treasurer. The City Clerk-Treasurer shall maintain a record of each permit issued and each report of violation.

- (b) Any permit issued in accordance with this section is subject to summary revocation at any time that the holder thereof is guilty of a violation of any of the provisions of this Code or county or state laws governing the sale or handling of food. Any person to whom such an order is issued shall immediately comply therewith, but, upon written petition to the Clerk-Treasurer, shall be afforded a hearing before the Council within 21 working days of such petition.
 - (c) The Police Department shall have authority to remove or cause the removal of any vending equipment or merchandise found on the street, sidewalk, terrace, or other vending location in violation of any regulations established within this ordinance. In addition to any forfeiture, the violator shall be liable for any removal, towing, and storage charges incurred by the department.
 - (d) For serious or repeated violations of any of the requirements of this section, or for interference with a city official in the performance of his or her duties, a permit may be revoked after an opportunity for a hearing has been provided by the Council. Prior to such action, the Clerk-Treasurer shall notify the permit holder, in writing, stating the reasons for which the permit is subject to revocation, and advising that the permit shall be revoked at the end of 5 working days following service of such notice, unless the permit holder files with the Clerk-Treasurer a request for a hearing within such 5-day period.
 - (e) The hearings provided for in this section shall be conducted by the Council at a time and place designated by the Mayor. The Clerk-Treasurer shall furnish the permit holder with a written report of the hearing decision.
- (6) Penalties. A person who violates any provision of this section shall be subject, at the discretion of the court, to any or all of the following penalties:
- (a) A forfeiture of not less than \$20.00 nor more than \$200.00 for each violation.

- (b) A suspension of the vendor's permit for not less than 10 days nor more than 30 days, or a revocation of the vendor's permit for the remainder of its term.
- (c) Any violations of City of Darlington ordinances will be prosecuted to the extent allowed by law.