

Chapter 9

LICENSES AND PERMITS

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Article I. In General

Sec. 9-01. Licenses required.

A license shall be required for each of the businesses or activities as provided in this chapter, at the indicated license fee, which shall be for one year unless otherwise indicated. Other businesses not listed in this chapter may require licenses or permits, together with fees therefor in such amounts as provided by other provisions of this Code.

(Code 1982, § 12.01)

Sec. 9-02. General provisions as to licenses.

(1) Terms interchangeable. The words "license" and "permit" as used throughout this chapter shall be interchangeable.

(2) License required. No person shall engage in any business, or activity regulated by this chapter, without a license therefor as provided in this chapter.

(3) Application. Application for a license required by this chapter shall be made to the city clerk on a form furnished by the city and shall contain such information as may be required by the provisions of this chapter or as may be otherwise required by the council.

(4) License fees. License fees shall be paid in accordance with the following:

- (a) Fees to accompany application. License fees imposed in this chapter shall accompany the license application. The finance department shall issue the applicant a receipt for his license fee.
- (b) Refunds. No fee paid shall be refunded unless the license is denied.

(5) Granting of licenses. Unless otherwise designated, licenses required by this chapter shall be issued by the city clerk only with the approval of the council, upon recommendation of the judiciary, license and cemetery committee.

(6) Terms of licenses. All licenses issued under this chapter shall expire on June 30 in the year of issuance unless issued for a shorter term, when they shall expire at 12:00 midnight of the last effective day of the license, unless otherwise provided by this Code or state laws.

(7) Form of license. All licenses issued under this chapter shall show the dates of issue and expiration and the activity licensed and shall be signed by the city clerk.

(8) Records of licenses. The city clerk shall keep a record of all licenses issued.

(9) Display of licenses. All licenses under this chapter shall be displayed upon the premises or vehicle for which issued or, if carried on the person, shall be displayed to any officer of the city upon request.

(10) Compliance with ordinances required. It shall be a condition of holding a license under this chapter that the licensee comply with all ordinances of the city. Failure to do so shall be cause for suspension or revocation of the license.

(11) Transfer of licenses. All licenses issued under this chapter shall be personal to whom issued, and no license shall be transferred without the consent of the council.

(12) Exemptions. No license other than a liquor or beer license shall be required under this chapter for any nonprofit educational, charitable, civic, patriotic or religious organization if the activity which would otherwise be licensed is conducted for the benefit of the members of the nonprofit organization or the public generally.

(13) Renewal of licenses. All applications for renewal of licenses under this chapter shall be made to the city clerk by April 15.

(14) Consent to inspection. An applicant for a license under this chapter thereby consents to the entry of police or authorized representatives of the city upon the licensed premises at all reasonable hours for the purposes of inspection and search, and consents to removal from the premises and introduction into evidence in prosecutions for violations of this chapter all things found therein in violation of this chapter or state law.

(15) Revocation and suspension of licenses. Licenses may be revoked and suspended as follows:

- (a) Except as otherwise provided, any license issued under this chapter may be revoked for cause by the council. No license shall be revoked except upon written verified complaint filed with the council by the mayor, a member of the council, the chief of police, the chairman of the license committee or a resident of the city. The licensee shall be served with a written copy of the complaint and shall be given an opportunity to be heard before the council. A Summons signed by the City Clerk shall command the licensee complained of to appear on a day and place, not less than 3 days and not more than 10 days from the date of issuance. The Summons and a copy of the Complaint shall be served on the licensee at least 3 days before the time at which the licensee is commanded to appear. Service shall be in the manner provided for in Section 801 of the Wisconsin Statutes.
- (b) At such hearing, the licensee shall be entitled to be represented by counsel, shall have the right to present and cross examine witnesses and, upon request, may have subpoenas issued by the mayor or presiding officer of the council to compel the attendance of witnesses.
- (c) After hearing the evidence, the council may revoke such license or impose a limited period of suspension. The determination of the council shall be final, subject to review under chapter 68 Wis. Stats. unless the licensee shall be granted a further hearing by the council.

- (d) If the licensee does not apply for a hearing within the time provided, the license may be revoked by the council.
- (e) The mayor or council may suspend the license of a licensee without hearing for a period not to exceed ten days.

(16) Issuance or renewal of licenses or permits. Issuance or renewal of licenses or permits shall be in accordance with the following:

a. The finance director shall furnish the city clerk and building services supervisor and all other issuers of licenses and permits in the city with a list of persons who have failed to pay any and all local city taxes, including real estate taxes, personal property taxes and room taxes, or who owe the city any money for assessments, claims, or forfeitures resulting from a conviction of any city ordinance violation, or who owe the city any money for any service rendered or any obligation incurred. Prior to the issuance or renewal of any license or permit, the city clerk, building services supervisor, or other issuer of such license or permit shall ascertain whether or not the applicant, building owner, or any officer, agent or related predecessor license holder is indebted to the city as provided in this subsection and, if so, shall refuse to issue the license and/or permit.

- 1. For purposes of this Section, a "related predecessor license holder" means any business entity, owner or agent that has a substantial relationship to the current applicant or license holder such that their principals or parties in interest are substantially the same.
- 2. If real estate taxes are unpaid for property upon which the premises will be the subject of a license or permit, the license and/or permit shall not be issued for such premises regardless of whether the identity of the license holder or applicant is different than the person or entity responsible for the unpaid real estate taxes.

b. Any applicant for a license or permit who is denied a license pursuant to subsection (16)(a) of this section shall have the right to an administrative hearing on the same pursuant to chapter 68 of the Wisconsin Statutes. Any applicant who is denied renewal of an alcoholic beverage license shall have the right to review of the denial pursuant to § 125.12 Wis. Stats.

c. Upon a hearing for review of a license application denial under this paragraph, the Council shall have the authority to grant a license subject to such terms or conditions it may in its discretion determine reasonable to secure payment of obligations to the City and insure financial responsibility of the applicant.

- 1. Upon the failure of any licensee granted a license hereunder to meet the specified terms or conditions at any time during the license period for which such conditional license was issued, said license shall be revoked.

(Code 1982, § 12.02; Ord. No. 1185, § 1 - 15, 12-21-2010)

Secs. 9-3—9-20. Reserved.

Article II. Alcoholic Beverages**Sec. 9-21. State statutes adopted.**

The provisions of chapter 125 of the Wisconsin Statutes and all acts amendatory thereof and supplementary thereto relating to the regulation of intoxicating liquor and fermented malt beverages are adopted as a portion of this chapter so far as applicable, except as otherwise lawfully provided by this chapter. A violation of any provisions of chapter 125 Wis. Stats. and Wisconsin Administrative Code pursuant thereto shall constitute a violation of this chapter. Except as preempted by state law, this article II shall supersede any contrary or conflicting provision of the Municipal Code of the City of Marshfield.

(Code 1982, § 12.03(1))

Sec. 9-22. Definitions.

As used in this article, the term:

Alcohol beverages means fermented malt beverages, wine and intoxicating liquor.

City means the City of Marshfield.

Club means an organization, whether incorporated or not, which is the owner, lessee or occupant of a building or portion thereof used exclusively for club purposes, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent or athletic purpose but not for pecuniary gain and which only sells alcohol beverages incidental to its operation.

Committee means the judiciary, licensing and cemetery committee of the City of Marshfield Council.

Convenience store means an establishment selling gasoline at retail pumps and other automotive products, which may also sell groceries and other food products for on- or off-premises consumption.

Fermented malt beverages means any beverage made of alcohol fermentation of an infusion in potable water of barley malt and hops, with or without unmelted grains or decorticated and degerminated grains or sugar containing 0.5 percent or more alcohol by volume.

Foreign business entity means any corporation not organized or incorporated under the laws of the State of Wisconsin.

Hotel means a hotel as defined in § 254.61(3) Wis. Stats. that is provided with a restaurant.

Intoxicating liquor means all ardent, spirituous, distilled or vinous liquors, liquids or compounds, whether medicated, proprietary, patented or not, and by whatever name called, containing 0.5 percent or more alcohol by volume, which are beverages, but does not include fermented malt beverages.

Legal drinking age has the meaning prescribed in § 125.02(8m) Wis. Stats.

Licensed establishment means any establishment licensed by the council of the City of Marshfield to sell alcohol beverages pursuant to chapter 125 Wis. Stats.

Licensee means the holder of a retail "class A," "Class B," class "B," class "A," or "class C" license granted by the council of the City of Marshfield pursuant to chapter 125 Wis. Stats.

Person means a natural person, sole proprietorship, partnership, limited liability company, corporation or association, or the owner of a single-owner entity that is disregarded as a separate entity under chapter 71 Wisconsin Statutes.

Premises means the area described in a license or permit.

Restaurant means a restaurant as defined in § 254.61(5) Wis. Stats.

Sell, sold, sale and selling mean any transfer of alcoholic beverages with consideration or any transfer without consideration if knowingly made for purposes of evading the law relating to the sale of alcoholic beverages or any shift, devise, scheme or transaction for obtaining alcohol beverages, including the solicitation of order for, or the sale for future delivery of, alcohol beverages.

Underage person means a person who has not attained the legal drinking age.

Wholesaler means a person, other than the brewer, manufacturer or rectifier, who sells alcohol beverages to a licensed retailer or to another person who holds a permit to sell alcohol beverages at wholesale.

Wine means products obtained from the normal alcoholic fermentation of the juices or must of sound, ripe grapes, other fruits or other agricultural products, imitation wine compounds sold as wine, vermouth, cider, perry, mead and sake, if such products contain 0.5 percent or more alcohol by volume.

Wine cooler means beverages containing products obtained from the normal alcohol fermentation of the juices or must of sound, ripe grapes, other fruits or other agricultural products, imitation wine compounds sold as wine, vermouth, cider, perry, mead and sake, if such beverages contain not more than six percent alcohol by volume.

(Code 1982, § 12.03(2))

Sec. 9-23. License required.

A license is required as follows:

(1) *When required.* No person, except as provided by § 125.06 Wis. Stats., 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 or gift any intoxicating liquor or fermented malt

beverage, or cause the same to be done, without having procured a license, permit or authorization as provided in this chapter, or without complying with all the provisions of this chapter and all statutes, ordinances and regulations of the state and city applicable thereto.

(2) *Separate license required for each place of sale.* A license shall be required for each of those premises where intoxicating liquor or fermented malt beverages are kept, sold or offered for sale.

(Code 1982, § 12.03(3))

Sec. 9-24. Classes of licenses.

There shall be the following classes and denominations of licenses which, when issued by the city clerk under the authority of the council after payment of the fee specified in this article, shall permit the holder to sell, deal or traffic in intoxicating liquor or fermented malt beverages as provided in this article:

(1) *Retail "class A" intoxicating liquor license.* A retail "class A" intoxicating liquor license, when issued by the city clerk under the authority of the council, shall permit its holder to sell, deal and traffic in intoxicating liquors only in original packages or containers which are to be consumed off the premises so licensed.

(2) *Retail "class B" intoxicating liquor license.* A retail "class B" intoxicating liquor license, when issued by the city clerk under authority of the council, shall permit its holder to sell, deal and traffic in intoxicating liquors to be consumed by the glass only on the premises so licensed, and in the original package or container in multiples not to exceed four liters at any one time to be consumed off the premises, except that wine may be sold in the original package or otherwise in any quantity to be consumed off the premises.

(3) *Class "A" fermented malt beverage retailer's license.* A class "A" retailer's fermented malt beverage license when issued by the city clerk under the authority of the council, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only for consumption away from the premises where sold and in the original packages, containers or bottles.

(4) *Class "B" fermented malt beverage retailer's license.* A class "B" fermented malt beverage retailer's license, when issued by the city clerk under the authority of the council, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages, either to be consumed upon the premises where sold or away from such premises. The holder may also sell beverages containing less than one-half of a percent of alcohol by volume, without obtaining a special license to sell such beverages.

(5) *Temporary class "B" fermented malt beverage license.* As provided in § 125.26(1) and (6) Wis. Stats. temporary class "B" fermented malt beverage licenses may be issued to bona fide clubs, to county or local fair associations or agricultural societies, or to churches, lodges or societies, that have been in existence for at least six months before the date of application, and to posts of veteran's organizations authorizing the sale of fermented malt beverages at a particular

picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. A license issued to a county or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of fermented malt beverages from leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of fermented malt beverages from the stands while the fair is being held. Such license is valid for dates as approved by the council.

(6) *Temporary "class B" wine license.* Notwithstanding § 125.68(3) Wis. Stats., temporary "class B" licenses may be issued to bona fide clubs, to county or local fair associations or agricultural societies, or to churches, lodges or societies, that have been in existence for at least six months before the date of application and to posts of veteran's organizations authorizing the sale of wine containing not more than six percent alcohol by volume in an original package, container or bottle or by the glass if the wine is dispensed directly from an original package, container or bottle at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. No fee may be charged to a person who at the same time applies for a temporary class "B" beer license under § 125.26(6)Wis. Stats. for the same event. A license issued to a county or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of wine containing not more than six percent alcohol by volume from leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of wine containing not more than six percent alcohol by volume from the stands while the fair is being held.

(7) *Wholesaler's license.* A wholesaler's fermented malt beverage license, when issued by the clerk under the authority of the council, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only in original packages or containers to retailers, wholesalers or licensed dealers, not to be consumed in or about the premises of such wholesaler.

(8) *Retail "class C" licenses.* Retail "class C" licenses shall be issued as follows:

- (a) In this subsection, "barroom" means a room that is primarily used for the sale or consumption of alcoholic beverages.
- (b) A "class C" license authorizes the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold.
- (c) A "class C" license may be issued to a person qualified under § 125.04(5) Wis. Stats. for a restaurant in which the sale of alcoholic beverages accounts for less than 50 percent of gross receipts and which does not have a barroom if the city's quota prohibits the city from issuing a "class B" license to that person. A "class C" license may not be issued to a foreign business entity or a person acting as agent for or in the employ of another.
- (d) A "class C" license shall particularly describe the premises for which it is issued.

(9) *Term.* All classes of licenses provided herein shall be effective on or after July 1 of each year, and shall expire the following June 30, except temporary licenses.

(Code 1982, § 12.03(4))

Sec. 9-25. License fees.

License fees shall be as follows:

(1) *Established.* The following fees and costs shall be paid for licenses to sell, deal or traffic in intoxicating liquors or fermented malt beverages as provided in section 9-24 and chapter 125 Wis. Stats. In addition to all license fees required by this chapter, all applicants shall also pay an investigation fee of \$15.00 as required by section 9-26(3). All such fees are payable after approval of the application and prior to the release of the license to the licensee, with the exception of temporary class "B" licenses, for which the fee shall be paid at the time the application is submitted:

- (a) *Class "A" fermented malt beverage retailer's license.* The annual fee for a class "A" fermented malt beverage retailer's license shall be \$100.00. The fee for a license for less than 12 months shall be prorated according to the number of months or fraction thereof for which the license is issued.
- (b) *Class "B" fermented malt beverage license.* The annual fee for a class "B" fermented malt beverage license shall be \$100.00. This license may be issued at any time for six months in any calendar year, for which 50 percent of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued. The fee for a license for less than 12 months shall be prorated according to the number of months or fraction thereof for which the license is issued.
- (c) *Temporary class "B" fermented malt beverage license.* The fee for a temporary class "B" fermented malt beverage license shall be \$10.00.
- (d) *Temporary "class B" wine license.* The fee for a temporary "class B" wine license shall be \$10.00. However, there shall not be a fee if the temporary wine license is obtained along with a temporary fermented malt beverage license.
- (e) *Fermented malt beverage wholesaler's license.* The annual fee for a fermented malt beverage wholesaler's license shall be \$25.00.
- (f) *"Class A" intoxicating liquor retailer's license.* The fee for a "class A" intoxicating liquor retailer's license shall be \$250.00, and shall increase annually after 2002, pursuant to the following schedule:

Year - Fee
2003 - \$300.00
2004 - 350.00
2005 - 400.00
2006 - 450.00
2007 and thereafter - 500.00

(g) *"Class B" intoxicating liquor retailer's license.* The fees for a "class B" intoxicating liquor retailer's license shall be as follows:

1. The fee for this license shall be \$250.00, and shall increase annually after 2002, pursuant to the following schedule:

Year - Fee	
2003 -	\$300.00
2004 -	350.00
2005 -	400.00
2006 -	450.00
2007 and thereafter -	500.00

2. In addition to the annual fee provided in section 9-25(1)(g)1, a fee of \$10,000.00 shall be paid for initial issue of any license designated a "reserve" license, pursuant to § 125.51(3)(e)2 Wis. Stats.

3. The City of Marshfield hereby finds that it is in the interests of the public welfare to increase the property tax base, provide employment opportunities, attract tourists and generally enhance the economic and cultural climate of the community by providing additional economic incentives for new businesses with liquor licenses.
 - a. The holder of a Reserve Class B license may apply for an Economic Development Grant in an amount not to exceed \$9,000 within twelve (12) months of the date of issuance of the Reserve Class B License. The holder shall complete an Application for Economic Development Grant for Reserve Class B Liquor Licenses, available from the City Clerk, and shall attach complete, legible copies of paid invoices or receipts evidencing or documenting improvements made to the licensed premises in an amount equal to or greater than the amount requested in the Economic Development Grant application.

 - b. The Reserve Liquor License Grant Review Team (hereinafter "Review Team"), consisting of the Clerk, Finance Director and the Planning and Economic Development Director, shall review the grant application and either approve or deny the application, as appropriate. The grant funds shall not be disbursed until the licensed premises listed on the application is operating and open to the public.

 - c. If the Review Team determines that the licensee is not in compliance with the approved license or grant application requirements set forth above, the Economic Development Grant request shall be denied and the Clerk shall make such findings in writing and cause to be delivered a copy of the findings to the licensee. If the licensee disagrees with the Review Team's determination, the licensee may file a written notice of appeal upon the Clerk within ten (10) calendar days of the delivery of the Review Team's findings to the licensee. The Clerk shall forward said notice of appeal to the Judiciary,

diciary, License and Cemetery Committee, which shall hold a hearing thereon within fifteen (15) business days.

If the Judiciary, License and Cemetery Committee finds that the licensee is in compliance with license requirements and the grant application satisfies requirements set forth in subparagraph 3(a), above, then the Judiciary, License and Cemetery Committee shall notify the Review Team and the Review Team shall authorize the payment of the Economic Development Grant in accordance with subparagraph 3(b), above.

- (h) *"Class C" wine license.* The annual fee for a "class C" wine license shall be \$100.00.
- (i) *Prorating of fees.* The fee for any license for less than 12 months shall be prorated according to the number of months including any fractional month for which such license is issued.

(2) *Cancellation for failure to pay fee.* The clerk shall issue each license approved by the council and shall make the license available at the clerk's office in city hall. Any license for which the license fee is not paid within 15 days of approval of the application by the council shall be returned to the council for cancellation or other disposition.

(Code 1982, § 12.03(5); Ord. No. 959, § 7, 4-9-2002; Ord. No. 980, § 1, 7-22-2003)

Sec. 9-26. License application.

The license application shall be submitted in accordance with the following:

(1) *Contents.* The application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on the form prescribed by the Wisconsin Department of Revenue and shall be sworn to by the applicant as provided by §§ 887.01—887.03 Wis. Stats. and shall be filed with the city clerk not less than 15 days prior to the granting of such license. The premises shall be physically described to include every room and storage space to be covered by the license, including all rooms not separated by a solid wall and all rooms joined by connecting entrances.

(2) *Publication.* The city clerk shall publish each application for fermented malt beverage and/or intoxicating liquor licenses or "class C" wine licenses. The application shall be published three successive days in the official city newspaper, and the cost of publication shall be paid by the applicant at the time the application is filed, as determined under § 985.08 Wis. Stats.

(3) *Fees for publication and investigation.* Upon the filing of the application, the applicant shall pay the city a sum for publication of the notice of the application for the license together with a nonrefundable investigation fee of \$15.00.

(4) *Amending application.* Whenever anything occurs to change any fact set out in the application of any licensee and prior to the issue of such license, such licensee shall file with the issuing authority a notice, in writing, of such change within ten days after the occurrence thereof. Notice of such facts after issue of any license shall be grounds for reconsideration of the approval of any application, upon notice and public hearing.

(5) *Filing of application.* All renewal applications for liquor licenses shall be filed on or before April 15 of each license year. A late fee of \$25.00 shall be imposed on any license renewal application filed after April 15.

(Code 1982, § 12.03(6))

Sec. 9-27. Qualification of applicants and premises.

Qualifications of applicants and premises shall be as follows:

(1) Natural persons. A retail class "A" or class "B" fermented malt beverage or "class A" or "class B" intoxicating liquor license shall be granted only to persons who meet the requirements imposed by § 125.04(5) Wis. Stats.

(2) Applicant to have malt beverage license. No retail "class B" intoxicating liquor license shall be issued to any person who does not have or to whom is not issued a class "B" retailer's license to sell fermented malt beverages.

(3) Right to premises. No applications will be considered unless the applicant has the right to possession of the premises described in the application for the license period, by lease or by deed.

(4) Corporate restrictions. Corporate restrictions shall be as follows:

(a) No license or permit may be issued to any corporation unless the agent of the corporation appointed under § 125.04(6) Wis. Stats. and the officers and directors of the corporation meet the qualifications of § 125.04(5)(a)1 and 3 and (b) Wis. Stats., and unless the agent of the corporation appointed under § 125.04(6) Wis. Stats. meets the qualification under § 125.04(5)(a)5 Wis. Stats. The requirement that the corporation meet the qualifications under § 125.04(5)(a)2, 125.04(5)(a)1 and (b) Wis. Stats. does not apply if the corporation has terminated its relationship with all the individuals whose actions directly contributed to the conviction. The agent shall provide written evidence satisfactory to the committee that the agent has sufficient authority over the business affairs of the corporation to be held personally responsible for the conduct of business at the licensed premises, pursuant to § 125.04(6)(a)2 Wis. Stats.

(b) Each corporate applicant shall file with its application for such license a statement by its officers showing the names and addresses of the persons who are stockholders together with the amount of stock held by such persons. It shall be the duty of each corporate applicant and licensee to file with the city clerk a statement of transfers of stock within 48 hours after such transfer of stock.

- (c) A license application may be denied and any license issued to a corporation may be revoked in the manner and under the procedure established in § 125.12 Wis. Stats. when more than 50 percent of the stock interest, legal or beneficial, in such corporation is held by any person not eligible for a license under this chapter or under state law. A person shall be deemed beneficial owner of any stock owned by a parent, sibling, child or spouse not directly involved with active management of the licensed premises, and of stock held by any other person in such circumstance that the committee may determine places the management and control of the operation of the licensed premises in a person not eligible for a license.

(5) Sales tax qualifications. All applicants for retail licenses shall provide proof, as required by § 77.61(11) Wis. Stats., that they are in good standing for sales tax purposes (i.e., hold a seller's permit) before they may be issued a license.

(6) Connecting premises. Except in the case of hotels, no person may hold both a "class A" license and either a "class B" license or permit, a class "B" license or permit, or a "class C" license for the same premises or for connecting premises. Except for hotels, if either type of license or permit is issued for the same or connecting premises already covered by the other type of license or permit, the license or permit last issued is void. If both licenses or permits are issued simultaneously, both are void.

(7) Limitation on other business; class "B" premises. No class "B" license or permit may be granted for any premises where any other business is conducted in connection with the premises, except that this restriction does not apply if the premises for which the class "B" license or permit is issued is connected to the premises where other business is conducted by a secondary doorway that serves as a safety exit and is not the primary entrance to the class "B" premises. No other business may be conducted on premises operating under a class "B" license or permit. These restrictions do not apply to any of the following:

- (a) A hotel.
- (b) A restaurant, whether or not it is a part of or located in any mercantile establishment.
- (c) A combination grocery store and tavern.
- (d) A combination sporting goods store and tavern in towns.
- (e) A combination novelty store and tavern.
- (f) A bowling alley or recreation premises.
- (g) A club, society or lodge that has been in existence for six months or more prior to the date of filing application for the class "B" license or permit.

(Code 1982, § 12.03(7))

Sec. 9-28. Investigation.

Upon receipt of an application for any retail class "A," "class A," class "B," or "class B" license or combination thereof or wholesale license, the city clerk shall send copies thereof to the fire department, building services supervisor and police department. The building services supervisor and the fire department either jointly or severally, within 15 days of receiving such copies, shall make a report, in writing, to the City Clerk, as to whether the premises meet the requirements of this chapter and the building, zoning, fire, and health codes. The police department shall report in writing to the committee chairman as to any police record of an applicant or an applicant's agent which may reflect habitual violation of law or conviction of a felony.

(Code 1982, § 12.03(8); Ord. No. 1155, § 1, 8-11-2009)

Sec. 9-29. Processing of application.

Procedures for processing the application are as follows:

- (1) A license application shall be denied for operation on any premises, or with any equipment, for which taxes, assessments, forfeitures or other financial claims of the city are delinquent and unpaid unless an exception to such requirement is granted upon hearing pursuant to Section 9-02 (16)(c).
- (2) No license shall be issued unless the premises conforms to the sanitary, safety and health requirements of the state building code, and the state board of health. The premises must be properly lighted and ventilated, must be equipped with separate sanitary toilet and lavatory facilities equipped with running water for each gender and must conform to all ordinances of the city.
- (3) The committee shall review the application, the reports of the departments, and all other information before it, and make a recommendation to the council.
- (4) In determining whether a new class "A," "class A," class "B," or "class B" license or combination thereof should be granted, the committee and the council shall consider the following factors giving to each whatever weight is appropriate in the particular factual circumstances, subject to mandatory provisions of state law:
 - (a) Arrest and conviction record of the applicant, subject to the limitations imposed by §§ 111.321, 111.322 and 111.335 Wis. Stats.;
 - (b) The financial responsibility of the applicant;
 - (c) Whether the location and the premises where the licensed business is to be conducted are appropriate, considering neighboring uses.
- (5) In regard to new license applications, an application may be denied based upon the applicant's arrest and conviction record if:

(a) Subject to ss. 111.321, 111.332, 111.335 and 125.12(1)(b) of the Wisconsin Statutes, generally requiring that offenses considered must substantially relate to the licensed activity, the applicant has habitually been a law offender.

(b) A violation of Chapter 125 of the Wisconsin Statutes or any violation which would have resulted in demerit points under Chapter 9 of the Marshfield Municipal Code may be presumed to be substantially related to the activities licensed under this Chapter.

(c) No violation may be considered for purposes of this section unless the applicant committed another violation within one year preceding the violation. However, if the applicant committed 2 or more violations within one year, all violations committed within one year of a previous violation may be considered for purposes of determining whether the applicant has been a habitual law offender.

(d) If the applicant has accumulated offenses which would have resulted in 50 or more demerit points under this Chapter, it shall be presumed that the applicant has been a habitual law offender.

(6) License review upon renewal application. Any license which is the subject of renewal shall, prior to license expiration, be reviewed in accordance with the procedure for license investigation contained in subsection (2) of this section, and in accordance with such additional procedures as the committee may require.

(7) Opportunity to be heard shall be given by the council to any person for or against the granting of any license. Upon the approval of the applicant by the council, the city clerk shall issue the applicant a license, upon payment by the applicant of the license fee and required costs to the city.

(8) If the council denies the license, the applicant shall be notified in writing, by registered mail or personal service, of the reasons for the denial. The notice shall also inform the applicant of the opportunity to appear before the council and to provide evidence as to why the denial should be reversed. In addition, the notice shall inform the applicant that the reconsideration of the application shall be held in closed session, pursuant to § 19.85(1)(b) Wis. Stats., unless the applicant requests such reconsideration be held in open session and the council consents to the request. Such written notice shall be mailed or served upon the applicant at least ten days prior to the council meeting at which the application is to be reconsidered.

(9) No application for any license which shall have been denied by the council for any reason shall again be considered by the council for a period of one year from the date of such denial.

(10) Numbering of license. All licenses shall be numbered in the order in which they are issued and shall state clearly the specific premises for which granted, the date of issuance, the fee paid and the name of the licensee.

(11) The City Clerk shall provide all new and renewed licensees with a copy of section Section 9-34 of the Marshfield Municipal Code pertaining to the demerit point assessment and disciplinary

procedure.

(Code 1982, § 12.03(9); Ord. No. 1185, § 1 - 15, 12-21-2010)

Sec. 9-30. Transfer and lapse of license

Procedures for the transfer and lapse of licenses shall be as follows:

(1) As to place. In accordance with the provisions of § 125.04(12)Wis. Stats., a license shall be transferable from one premises to another if such transfer is first approved by the council. An application for transfer shall be made on a form furnished by the city clerk. Proceedings for such transfer shall be had in the same form and manner as the original application. The fee for such transfer is \$10.00. Whenever a license is transferred, the city clerk shall forthwith notify the Wisconsin Department of Revenue of such transfer. This subsection does not apply to a license issued under § 125.51(4)(v) Wis. Stats. or to reserve "class B" licenses, as defined by § 125.51(4)(a)4 Wis. Stats.

(2) As to person. Transfers as to person shall be in accordance with the following:

(a) In the event of the sale of a business or business premises of the licensee, the purchaser of such business or business premises must apply to the city for reissuance of the license, and the city, as the licensing authority, shall in no way be bound to reissue the license to the subsequent purchaser.

(b) If a retail licensee becomes disabled, the city may, upon application, transfer the license to the licensee's spouse if that spouse may hold that type of license under the Wisconsin Statutes and complies with all requirements under this chapter applicable to original applicants, except that the spouse is exempt from payment of the license fee for the year in which the transfer takes place.

1. If the licensee becomes disabled, the licensee shall be granted a reasonable exception from the operation of Section 9-32(11) and 9-32(12).

(c) Upon the death of the licensee, the personal representative, the surviving spouse if a personal representative is not appointed, a trustee or a receiver may continue or sell or assign the business. Business may be continued under this subsection only if the fiduciary or surviving spouse is a lawful resident of the United States and the State of Wisconsin, for a period of 90 days from the licensee's date of death, unless the operator shall qualify for new license. Provided, however, the spouse or personal representative or a personal agent authorized in writing to supervise and control the actual operation of the licensed premises shall be an individual qualified to hold the appropriate license under § 125.04(5) Wis. Stats.

1. Upon the death of the licensee, a reasonable exception shall be granted from the operation of Sections 9-32(11) and 9-32(12).

(3) Whenever the agent of a corporate holder of a license is for any reason replaced, the licensee shall give the city clerk written notice of the replacement, the reasons therefor and the new

appointment. Until the next regular meeting or special meeting of the council, the successor agent shall have the authority to perform the functions and be charged with the duties of the original agent. However, the license shall cease to be in effect upon receipt by the city clerk of notice of disapproval of the successor agent by the Wisconsin Department of Revenue or other peace officer of the municipality in which the license was issued. The corporation's license shall not be in force after receipt of such notice or after a regular or special meeting of the council until the successor agent or another qualified agent is appointed and approved by the city.

(4) Transfers where revocation or suspension proceedings are threatened or commenced shall be in accordance with the following:

- (a) Retail class A or B liquor and fermented malt beverage licenses may not be transferred when any proceeding has been commenced by any authorized person or party or when any proceeding is authorized by the committee or council to revoke or suspend such license except as provided in subsection (4)(b) of this section.
- (b) A retail class A or B liquor or fermented malt beverage license which is in jeopardy due to a pending license revocation proceeding may be transferred to the owner of the licensed premises where the license holder leases the premises or holds the premises under a land contract subject to the following terms and conditions:
 1. The license has not been revoked following a lawful revocation hearing.
 2. The licensee surrenders the license and the owner of the premises applies for the license.
 3. License fees will not be prorated.
 4. The license has not been transferred under threat of revocation within the past ten years.
 5. The license holder does not receive any compensation or profit from the license transfer and does not continue to be active in the management and control of the premises.

(Code 1982, § 12.03(10); Ord. No. 1185, § 1 - 15, 12-21-2010)

Sec. 9-31. Posting licenses; defacement.

Licenses shall be posted, and defacement shall be prohibited in accordance with the following:

(1) Every person licensed in accordance with the provisions of this chapter shall immediately post such license and keep the license posted while in force in a conspicuous place in the room or place where such beverages are drawn or removed for service or sale.

(2) It shall be unlawful for any person to post such license or to be permitted to post it upon premises other than those mentioned in the application or knowingly to deface or destroy such license.

(Code 1982, § 12.03(11))

Sec. 9-32. General conditions and restrictions.

All retail liquor licenses granted under this article shall be granted subject to the following conditions, and all other conditions of this article, and subject to all other ordinances, statutes and regulations of the city and state applicable thereto:

(1) *Consent to entry.* Every applicant procuring a license thereby consents to the entry of police or other duly authorized representatives of the city at all reasonable hours for the purpose of inspection and search, and consents to the removal from such premises of all things and articles there found in violation of city ordinances or state laws, and consents to the introduction of such things and articles in evidence in a prosecution that may be brought for such offenses.

(2) *Minors.* No retail "class B" or class "B" licensee shall permit any underage person, as defined in the Wisconsin Statutes, upon licensed premises except for the purpose of the transactions of business as an employee of the licensee or licensee's agent, to sell, dispense or give away alcoholic beverages to such person, unless accompanied by a parent, spouse or legal guardian who has attained the legal drinking age, except as provided at § 125.07 Wis. Stats.

- (a) Family members of the licensee who are minors under the age of 18 years may work in the licensed premises but are not permitted to sell or dispense alcoholic beverages.
- (b) It is not a violation of this subsection if an underage person enters or remains in a room on class "B" or "class B" licensed premises separate from any room where alcoholic beverages are sold or served if no alcoholic beverages are furnished or consumed by any person in the room where the underage person is present and the chief of police of the City of Marshfield, or his designee, issues to the class "B" or "class B" licensee a written authorization for nonalcoholic activities or uses, permitting an underage person to be present under this subsection on the date specified in the authorization. Before issuing the authorization, the chief of police of the City of Marshfield or his designee shall make a determination that all alcoholic beverages on the premises are adequately secured and 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.
- (c) No person who holds a license or permit and no employee of such a person is civilly liable for retaining a document presented as proof of age for a reasonable length of time in a good faith effort to determine whether the person who presented the document is an underage person or to notify a law enforcement authority of a suspected violation of § 125.085(3)(a) or (b) Wis. Stats.

(3) *Disorderly conduct prohibited.* Each licensed premises shall, at all times, be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.

(4) *Licensed operator on premises.* There shall be upon all licensed premises during hours of operation, at all times, the licensee, and/or members of the licensee's immediate family who have attained the legal drinking age, and/or some person who shall have an operator's license and who shall be responsible for the acts of all persons serving as waiters, or in any other manner, providing any fermented malt beverages or intoxicating liquor to customers. No person other than the licensee shall serve fermented malt beverages or intoxicating liquor in any place operated under a "class B," class "B," or "class C" license unless he possesses an operator's license, or there is a person with an operator's license upon the premises at the time of such service.

(5) *Health and sanitation regulations.* The rules and regulations of the state board of health governing sanitation in restaurants shall apply to all premises for which liquor licenses are issued under this chapter.

(6) *Restrictions near schools and churches.* Except as provided in § 25.68(3) Wis. Stats., no retail class A or class B license shall be issued for premises, the main entrance of which is less than 300 feet from the main entrance of any established public school, parochial school, hospital or church. Such distance shall be measured by the shortest route along the street or highway from the closest point of the maintenance entrance of such school, church or hospital to closest point of the main entrance to such premises. This subsection shall not apply to premises licensed as such on June 30, 1947, nor shall it apply to any premises licensed as such prior to the occupation of real property within 300 feet thereof by any school building, hospital building or church building.

(7) *Clubs.* No club shall sell or give away any fermented malt beverages or intoxicating liquors except to bona fide members and guests invited by members.

(8) *Improper exhibitions.* Improper exhibitions shall be restricted as follows:

(a) *Nude dancing in licensed establishments prohibited.* It is unlawful for any person to perform or engage in, or for any licensee or manager or agent of the license to permit any person, employee, entertainer or patron to perform or engage in any live act, demonstration, dance or exhibition on the premises of a licensed establishment which: exposes his or her genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering; or exposes any portion of the female breast at or below the areola; or exposes the covered male genitals in a discernable turgid state; or exposes any device, costume or covering which gives the appearance of or simulates genitals, pubic hair, buttocks, anal region or pubic hair region; or engages in or simulates sexual intercourse and/or any sexual contact, including the touching of any portion of the female breast or the male and/or female genitals.

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

dancing.

- (c) *Penalties.* Any person who violates any of the provisions of this subsection shall be subject to a forfeiture of not less than \$500.00, and not more than \$1,000.00 per violation. A separate offense and violation shall be deemed committed on each day on which a violation occurs or continues. In addition, violation of this subsection constitutes sufficient grounds for suspending, revoking or nonrenewing an alcoholic beverage license under § 125.12 Wis. Stats. and section 9-34.

(9) *Closing hours.* Closing hours shall be in conformity with § 125.32(3) Wis. Stats. and further restricted as follows:

- (a) *Class "B" licenses.* Closing hours for class "B" licenses shall be as follows:

1. No premises for which a retail "class B" liquor, class "B" fermented malt beverage, or "class C" wine license has been issued shall be permitted to remain open for the sale of liquor or fermented malt beverages or for any other purpose between the hours of 2:00 a.m. and 6:00 a.m., Monday through Friday, and 2:30 a.m. and 6:00 a.m., Saturday and Sunday. There shall be no closing hours on January 1.
2. Hotels and restaurants, the principal business of which is the furnishing of food or lodging to patrons, bowling alleys, indoor horseshoe-pitching facilities, curling clubs, golf courses, and golf clubhouses may remain open for the conduct of their regular business but shall not sell liquor or malt beverages during the closing hours of subsection (9)(a)1 of this section.

- (b) *Carry-out hours.* Carry-out hours shall be as follows:

1. Between the hours specified in §125.32(3)(b), Wis. Stats., no person may sell, remove, carry out or permit to be removed or carried out from any premises having a class "A" license, fermented malt beverages in original unopened packages, containers or bottles or for consumption away from the premises.
2. Between the hours specified in §125.68(4)(b), no person may sell intoxicating liquor in original unopened packages, containers or bottles or for consumption away from the premises having a "class A" license.
3. Between the hours specified in §125.32(3) (am), no person may sell fermented malt beverages or intoxicating liquor on "class B" or class "B" licensed premises in an original unopened package, container or bottle or for consumption away from the premises.
4. Between the hours specified in §125.68(4)(c)3., Wis. States, no person may sell intoxicating liquor on "class B" or class "B" licensed premise in an original unopened packae, container or bottle or for consumption away from the premises.

(10) *Conduct of business in conjunction with another business.* No business under a "class A" liquor license, or under a combination of a "class A" liquor license and a class "A" fermented malt beverage license, shall be conducted in conjunction with any other business on the same premises,

business on the same premises, unless the area in which the liquor and/or beer is sold shall be arranged and constructed in a manner as to permit and facilitate its closing during the hours and days stipulated by the Wisconsin Statutes.

(11) *Time limit for beginning business.* Within 90 days from the issuance of a "class A" retail liquor license, class "A" retail fermented malt beverage license, "class B" intoxicating liquor license or a class "B" fermented malt beverage license, the licensee shall be opened for business with stock and equipment. In the event of his failure to do business within such time, his license shall be subject to revocation by the council after a public hearing. The committee may, for good cause shown, extend such 90-day period.

(12) *Failure to remain open.* If any licensee shall fail to remain open for business for a period of 90 consecutive days or more, his "class A" retail liquor license, "class A" retail fermented malt beverage license, class "B" intoxicating liquor license or "class B" fermented malt beverage license shall be subject to revocation by the council after a public hearing.

(13) *Consumption outside of certain premises.* Intoxicating liquor and fermented malt beverages sold on premises may not be consumed by patrons or others outside of retail "class B" intoxicating liquor or fermented malt beverages premises as such premises are described in the relevant license application, and it shall be unlawful for a license holder to permit such consumption contrary to the terms of this article.

(14) *License quotas.* License quotas shall be as follows:

- (a) The number of persons and places that may be granted liquor licenses under this article is limited as provided in the Wisconsin Statutes, except as provided in this subsection.
- (b) In the event applications for previously unissued licenses of any class exceed the number of licenses available, the judiciary, licensing and cemetery committee shall conduct a lottery among qualified applicants to select the parties to be issued the available licenses.
- (c) Population shall mean the number of inhabitants as determined in the last decennial federal census preceding the application in question.

(15) *Sales by persons holding operator's license.* Sales of fermented malt beverages and intoxicating liquor in class "A" and "class A" licensed premises shall be made only by persons holding a current operator's license under section 9-36, or by other persons at the establishment who are the age of 18 or older, provided such other persons are under the direct supervision, including the direct view, of a person holding a current operator's license under section 9-36.

(Code 1982, § 12.03(12); Ord. No. 895, § 2, 8-14-2001; Ord. No. 1066, § 1, 2, 3-28-2006; Ord. No. 1218, § 1, 1-24-2012)

Sec. 9-33. Restrictions on temporary fermented malt beverage or wine licenses.

It shall be unlawful for any person or organization on a temporary basis to sell or offer to sell any alcoholic beverage upon any city-owned property or privately owned property within the City of Marshfield, except through the issuance of a temporary class "B" fermented malt beverage license or temporary "class B" wine license issued by the council in accordance with Wisconsin Statutes and as set forth in this section. A temporary class "B" fermented malt beverage license or temporary "class B" wine license authorizing the sale and consumption of beer and/or wine on city-owned property or privately owned property may be authorized by the council provided the following requirements are met:

(1) *Compliance with eligibility standards.* The organization shall meet the eligibility requirements of a bona fide club, association, lodge or society as set forth in § 125.26(6) Wis. Stats. and shall fully comply with the requirements of this article.

(2) *Posting of signs and licenses.* All organizations issued a temporary license shall post in a conspicuous location at the main point of sale and at all remote points of sale a sufficient number of signs stating that no fermented malt beverage shall be served to any underage person without proper identification.

(3) *Fencing.* If necessary due to the physical characteristics of the site, the council may require that organizations install a double fence around the main point of sale to control ingress and egress and continually station a licensed operator, security guard or other competent person at the entrance for the purpose of checking age identification. Where possible, there shall be only one point of ingress and egress. When required, the double fence shall be a minimum of four feet high, and there shall be a minimum of six feet between fences.

(4) *Underage persons prohibited.* No underage persons as defined by the Wisconsin Statutes shall be allowed to assist in the sale of fermented malt beverages or wine at any point of sale, nor shall they be allowed to loiter or linger in the area of any point of sale, unless accompanied by a responsible adult.

(5) *Licensed operators requirement.* A licensed operator shall be stationed at all points of sales at all times.

(6) *Waiver.* The council may waive or modify the requirements of this section due to the physical characteristics of the licensed site.

(7) *Insurance.* The applicant for a temporary fermented malt beverage or wine license may be required to indemnify, defend and hold the city and its employees and agents harmless against all claims arising from injury to or the death of any person, or any damage to property, caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the license, the applicant may be required to furnish a certificate of comprehensive general liability insurance or a performance bond prior to being granted the license.

(8) *Beer and liquor not to be carried in or out.* No person shall bring fermented malt beverages or intoxicating liquor in any form of a container with him, or in his automobile, to any public function within the City of Marshfield for his own consumption, or consumption of others, except with permission of the council granted for such function. The term "public function" shall be construed to mean any function that is open to the general public with or without admission charge upon any premises in the city. The carry-out of any alcoholic beverage is prohibited, and such prohibition shall be strictly enforced by the organization.

(9) *Sale of fermented malt beverages on public grounds.* It shall be unlawful for any person to sell, dispense or serve alcoholic or soft drink beverages to any person, at any concession stand or otherwise upon any public grounds in the City of Marshfield, including the Oak Avenue ball diamond and the Marshfield Fairgrounds, except in paper or plastic cups or containers or in an original metal can. Glass bottles or other glass containers are prohibited.

(10) *Application for license.* Application for such license shall be signed by the president or corresponding officer of the society or association making such application and shall be filed with the city clerk together with the appropriate license fee for each day for which the license is sought. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a forfeiture of \$200.00 and will be ineligible to apply for a temporary class "B" license for one year. The license shall specify the hours and dates of the license's validity. The application shall be filed a minimum of 15 days prior to the meeting of the council at which the application will be considered for events of more than three consecutive days. If the application is for a license to be used in a city park, the applicant shall specify the main point of sale facility.

(11) *Review of license.* Temporary class "B" fermented malt beverage and "class B" wine licenses will not be reviewed by the committee but will be reviewed by the city clerk prior to council action thereon. Council agendas shall have a general heading of "temporary liquor license," and such license applications approved by the city clerk as being in compliance with § 125.06(6) Wis. Stats. and this article will be submitted to the council for approval as a matter of course. However, any applicant desiring to appeal the city clerk's ruling to the council may do so by filing a written notice of appeal with the city clerk. Appeals may be acted upon by the council under the general heading on the council agenda relative to temporary licenses.

(Code 1982, § 12.03(13); Ord. No. 1137, § 1, 8-26-2008)

Sec. 9-34. Revocation and suspension of licenses; nonrenewal.

Policy and procedure for disciplinary actions relative to all retail intoxicating liquor and/or fermented malt beverage licenses, operator's licenses, agents, and other licenses and permits authorized in section 9-24 shall be as follows:

(1) License investigations. The following may initiate requests for investigations before the committee which may result in orders, suspensions, nonrenewals, delay in license issuance or revocation:

- (a) The mayor;
- (b) The council;
- (c) The committee;
- (d) The State of Wisconsin;
- (e) An alderman;
- (f) The police chief;
- (g) The fire chief;
- (h) The building services supervisor;
- (i) The city attorney;
- (j) Any city resident, by written complaint pursuant to § 125.12 Wis. Stats.

(2) Requests for investigations. Requests for investigations shall be in writing, to the city clerk and shall contain a brief statement of the alleged misconduct. The request shall be forwarded by the requesting party to the city clerk who shall place such request on the council agenda for referral to the committee or directly on the committee agenda with the permission of the committee chairperson. The city clerk or the committee secretary shall issue a summons requiring the licensee to attend the committee meeting at which the matter will be received. Documents which form a basis for a request for an investigation shall be available for the inspection of the licensee.

- (a) The committee shall comply with the procedural requirements of § 125.12 Wis. Stats. and may reconsider any evidence or argument presented or made before it, whether or not obtained in or related to the written request for an investigation.
- (b) The committee, upon requesting and receiving a recommendation from the city attorney's office, shall recommend to the council:
 1. That no action be taken;
 2. That the license be suspended, not renewed or revoked following statutory notice and opportunity to be heard, where the criteria for such action in subsection (4) of this section is met;
 3. That an order be issued and served upon the licensee requiring that certain action be taken as a condition of maintaining such license and providing notice that revocation may be the penalty for failure to strictly comply with the letter and spirit thereof; or
 4. That where the licensee leases or holds the licensed premises under a land contract, the license be transferred to the owner of the licensed premises in accordance with section 9-30(4).

- (c) The committee shall have the obligation of notifying the licensee of any further proceedings before the council.
- (d) The council may affirm, deny or modify any recommendations of the committee.

(3) Criteria for license revocation, nonrenewal or suspension. Any retail licensee who, within two consecutive license terms, equals or exceeds a total of 100 demerit points for the below-described conduct committed by the licensee, or employee or agent thereof, whether or not charged and/or convicted, shall have their license subject to revocation, nonrenewal or suspension, within the discretion of the council:

- (a) Five demerit points for the first violation of each of the following within two consecutive license years:
 - 1. Violation of chapter 125 Wis. Stats. and/or this article governing hours of permitted operation.
 - 2. Violation of chapter 125 Wis. Stats., and/or this article with respect to the required posting and display of the license.
 - 3. Violation of chapter 125 Wis. Stats. and/or this article with respect to the quantity of liquor permitted to be sold.
- (b) Twenty-five demerit points, except as provided in subsections (3)(a) and (3)(c) of this section:
 - 1. Violation of chapter 125 Wis. Stats.
 - 2. Violation of this article.
 - 3. Filing of an untrue, incorrect and/or incomplete application in violation of section 9-26.
 - 4. Violation of a state or federal misdemeanor criminal gambling law or knowingly permitting any such violation.
 - 5. Violation of any state misdemeanor criminal law or city ordinance prohibiting the use of marijuana or possession thereof with or without intent to sell or knowingly permitting any person to commit such violation.
 - 6. A conviction for a criminal violation of § 346.63 Wis. Stats. relating to operating a motor vehicle while under the influence of an intoxicant or controlled substance, or with a blood alcohol concentration greater than or equal to 0.10 percent.
- (c) For violations of section 9-32(2), and state statutes related to service of minors and minors on business premises, demerit points shall be assessed as follows:
 - 1. Twenty-five demerit points for the first offense.
 - 2. Fifty demerit points for the second and subsequent offenses.

3. Demerit points for violation of section 9-32(2) and state statutes related to service of minors and minors on business premises may be reduced by ten demerit points, upon evidence of adequate good faith measures intended to prevent such violations. The defenses to such violation provided at § 125.07(6) Wis. Stats. shall apply to alleged violations under this section.
 4. Violations of section 9-32(2) and state statutes related to service of minors and minors on licensed premises arising from a single or a closely related incident shall not be charged as multiple violations. It is intended by this subsection that violations by two or more persons in the same party or group, or two or more violations at the same time and place by one individual shall be considered a single incident, but multiple violations by unconnected individuals at the same time and place may be considered as separate violations.
 5. Uncorroborated testimony by a minor accused of a violation of the provisions of section 9-45 of this section, or the equivalent state statutes, shall not be deemed sufficient evidence of a violation of section 9-32(2) or 9-33(4).
- (d) Fifty demerit points shall be given for the following:
1. Obstruction of any law enforcement officer or knowingly permitting any person to engage in such conduct.
 2. Violation of an order of the council.
 3. Failing to appear before the committee or council when ordered to do so upon personal service of such notice at least 3 days prior to the scheduled appearance.
- (e) One hundred demerit points shall be given for the following:
1. Violation of any state or federal criminal law prohibiting the sale, trafficking in or possessing with intent to sell of marijuana or any controlled substance, or knowingly permitting any person to commit such violation.
 2. A conviction for a violation of state or federal criminal law which is a felony if the circumstances of the charge substantially relate to the circumstances of the licensed activity.
- (f) Discretionary demerit points. Nonscheduled offenses shall be the subject of such number of demerit points as designated by the council, within its discretion.
- (g) No violation may be considered for purposes of this section unless the licensee committed another violation within one year preceding the violation. However, if the applicant committed 2 or more violations within one year, all violations committed within one year of a previous violation may be considered for purposes of considering point accumulation during two consecutive license terms.
- (h) Regardless of point accumulation under this Chapter, a license revocation, nonrenewal or suspension may be exercised for any reason authorized under Chapter 125 of the Wisconsin Statutes or this Chapter.

- (i) The Judiciary, License and Cemetery Committee shall have the discretion to reduce demerit points assessed for a specific violation at a hearing under 9-34(9), including but not limited to undercover compliance checks.

(4) Automatic revocation. A license accruing 100 demerit points or more during two license periods shall be subject to revocation as a matter of course, absent compelling mitigating factors. If the council shall determine that such factors exist, it shall refer the matter to the committee for recommendation regarding a probationary period of continuation for the license holder. The committee, after consultation with the police department, city attorney and such other persons the committee deems appropriate, may recommend probationary provisions to the council, which shall be deemed sufficient to ensure future compliance with state statutes and this article. Pending such recommendation and further action by the council, the license shall be suspended, unless the council shall determine such suspension would result in extreme and undue hardship.

(5) Effect of charge dismissed. A dismissal of a criminal charge or civil forfeiture case on a violation which is also the subject of demerit points shall not, as a matter of law, nullify such charge for the purpose of review herein due to the differing burdens of proof and procedural requirements.

(6) Delay in license issuance. Any person or party who performs a licensed activity without first having obtained a proper license, or who, during a period of license suspension, or who, after license revocation or nonrenewal, unlawfully engages in a licensed activity, shall be barred from applying for the required license for a period of six months from the date of such offense.

(7) New licenses granted subject to demerit points. New licenses may be granted subject to such number of demerit points or other conditions as the council, in its discretion, may deem appropriate, irrespective of the nature of the offense, where the council has concern as to the arrest and conviction record, moral character and business responsibility of the applicant, which is insufficient for license denial.

(8) Time for action. Disciplinary action need not be commenced and completed in the same license year as the offense occurred. Where disciplinary actions are not commenced and completed within a license term, a license shall be granted subject to a "nonrenewal revocation hearing," to be held as soon as is practical.

(a) For offenses committed within the City of Marshfield under this Chapter, disciplinary action shall be commenced within 60 days of an offense which gives rise to the disciplinary action. If no action is taken within 60 days of the offense giving cause for the disciplinary action, no complaint based solely on that offense may be the basis for disciplinary action.

(9) Disciplinary hearings. Disciplinary hearings, including nonrenewal, suspension and revocation hearings, shall be held before the committee, which shall submit a report to the council, including findings of fact, and a recommendation as to what action, if any, the council should take with respect to the license. The committee shall provide the complainant and the licensee with a copy of the report. Either the complainant or licensee may make an objection, orally or in writing, to the report and shall have the opportunity to present arguments supporting the objection to the

council. The council shall determine whether the arguments shall be presented orally or in writing, or both. If the council, after considering the committee's report and any arguments presented by the complainant and licensee, finds the complaint to be true, or if there is not objection to a report recommending a suspension, revocation or nonrenewal, the license shall be suspended, revoked or not renewed as provided by law. If the council finds the complaint untrue, the proceedings shall be dismissed without cost to the accused. The city clerk shall give notice of each suspension, revocation or nonrenewal to the party whose license is affected.

(10) Judgment of conviction, as prima facie proof of violation. The judgment of conviction of any licensee, or employee or agent thereof, in any municipal, state or federal court, irrespective of whether obtained following a plea agreement, or bond forfeiture, shall be prima facie proof of such violation for purposes of this article. However, in the instance of any judgment of conviction entered pursuant to a no contest plea, or considered in law to be rendered pursuant to a no contest plea, such judgment of conviction as a prima facie case may be rebutted. Further, mitigating circumstances may be introduced with respect to any judgment of conviction.

(11) Application for determination of demerit points. Any licensee or party entitled to initiate a request for an investigation under subsection (1) of this section may at any time request the committee or the council to determine whether or not conduct which has occurred constitutes a basis for demerit points and a report of outstanding demerit points. Any licensee may appeal imposition of demerit points by written application for hearing to the committee. Hearings concerning such appeals shall be conducted as provided at § 125.12 Wis. Stats. and this article.

(12) Violations by agents or employees. A violation of this article by an authorized agent or employee of a licensee acting in the course of his or her employment shall constitute a violation by the licensee. The licensee shall be notified of such violation by copy of the citation, or other written notice personally served or mailed to the licensee at the licensed premises.

(13) Commencement of penalties. Penalties shall commence the day after they have been imposed by the council. Days of suspension shall run consecutively.

(14) Periodic reports by police chief. The police chief shall file periodic reports with the city clerk of conduct by any licensee, or employees thereof, which may constitute a basis for demerit points. The city clerk shall provide each licensee with a summary of demerit points affecting the license annually at the time an application for renewal is received, or upon request. The committee, at license renewal time, or at any earlier time deemed appropriate may bring such matters to the attention of the city attorney and make a request for a recommendation on disciplinary action.

(15) Exceptions. This section shall apply to operator's licenses, except accrual of 50 or more demerit points shall constitute grounds for revocation of an operator's permit.

(Code 1982, § 12.03(14); Ord. No. 1120, § 1, 12-18-2007; Ord. No. 1185, § 1 - 15, 12-21-2010)

Sec. 9-36. Operator's license required.

An operator's license is required as follows:

(1) Operator's licenses. Except as provided in Wisconsin Statutes or specifically set forth in this article, no premises operated under a retail liquor "class A," "class B," or "class C" license or permit may be open for business unless there is upon the premises the licensee or permittee, the agent named in the license or permit if the licensee or permittee is a business entity, or some person who has an operator's license and who is responsible for the acts of all persons serving any alcoholic beverages to customers. For the purpose of this article, any member of the licensee's or permittee's immediate family who has attained the age of 18 and resides in the same household as the licensee shall be considered the holder of an operator's license. No person, including a member of the licensee's or permittee's immediate family, other than the licensee, permittee or agent, may serve alcoholic beverages in any place operated under a retail liquor license or permit unless he or she has an operator's license or is at least 18 years of age and is under the immediate supervision of the licensee, permittee, agent or a person holding an operator's license, who is on the premises at the time of the service.

(2) Use by another prohibited.

(a) No person may allow another to use his or her operator's license or permit to sell alcoholic beverages.

(b) The license or permit of a person who violates subsection (2)(a) of this section shall be revoked.

(3) The procedure upon application for an operator's license shall be as follows:

(a) The council may issue an operator's license, which license shall be granted only upon application in writing on forms to be obtained from the City clerk and only to a person 18 years of age or older. Operator's licenses shall be operative only within the limits of the city.

(b) All full-term operator's license renewals must be applied for by May 1 of the year the license expires to allow sufficient time for conducting property background checks prior to the May meeting of the committee. The fee required by this article must accompany the application.

(c) All applications are subject to an investigation by the chief of police and/or other appropriate authority to determine whether the applicant to be licensed complies with all regulations, ordinances and laws applicable thereto. The police department shall conduct an investigation of the applicant including, but not limited to, requesting information from the state, surrounding municipalities, and any community where the applicant has previously resided concerning the applicant's arrest and conviction record. Based upon such investigation, the chief of police or his designee shall provide a written recommendation for approval or denial of the application.

(4) Standard operator's licenses issued under the provisions of this chapter shall be valid for a period of not more than two calendar years and shall expire on June 30 of each calendar year ending with an odd number. This provision shall also apply to all partial term licenses issued under the provisions of this chapter which partial term licenses shall also expire on June 30 of each calendar year ending with an odd number.

(5) The fee for an operator's license and criteria for issuance of provisional licenses are as follows:

(a) Fee. The fee for an operator's license shall be as follows:

(1) The fee for a standard operator's license shall be \$20.00 for the two-year term plus a nonrefundable investigation fee which shall be set by the City Clerk at the time of the application and limited to the actual cost incurred by the City for the applicant's background investigation.

(2) Partial year licenses may be issued under this article with the license fee prorated according to the following schedule:

i. Licenses granted for a period of time of less than two years but greater than one year shall be \$20.00, plus the nonrefundable investigation fee.

ii. License granted for a period of time of one year or less, including the transition year from current procedure, shall be \$15.00, plus the nonrefundable investigation fee.

iii. The nonrefundable investigation fee shall be set by the City Clerk at the time of the application and shall be limited to the actual cost to the City for the background investigation.

(b) *Provisional license.* The city clerk may issue provisional operator's licenses to persons applying for an operator's license in accordance with § 125.17(5) Wis. Stats. The fee for such license shall be \$15.00. The provisional operator's licenses shall expire 60 days after its issuance or when an operator's license is issued to the holder, whichever is sooner. The city clerk may, upon receipt of an application for a temporary provisional license, issue such a license without requiring the successful completion of the approved program as described in this section. However, such temporary license shall be used only for the purpose of allowing such applicant the privilege of being licensed as a beverage operator pending his successful completion of the approved program. Provisional licenses may not be issued to any persons who have been denied operator's licenses by the council or who have had their operator's licenses revoked or suspended within the preceding 12 months. The city shall provide an appropriate application form to be completed in full by the applicant. The city clerk may revoke a provisional license issued if he discovers that the holder of the license made a false statement on the application. Following completion of the responsible beverage server training course and notification from the school, the license application will be presented to the committee, for referral to the council. If approved by the council, the regular operator's license shall be issued as provided above.

(c) *Refund of fee.* If a license is denied, the license fee shall be refunded. Upon issuance of the license, all fees become nonrefundable, regardless of subsequent use, surrender or termination.

(6) An operator's license shall be issued or denied in accordance with the following:

(a) After the council approves the granting of an operator's license, the city clerk shall issue the license. Such licenses shall be issued and numbered in the order they are granted and shall give the applicant's name and address and date of the expiration of such licenses.

(b)

1. If the application is denied by the council, the city clerk shall give the applicant written notice of the denial, the reasons therefore, and of the opportunity to request reconsideration of the application by the committee in a closed session. Such notice must be sent by registered mail to, or served upon, the applicant at least ten days prior to the council's reconsideration of the matter. At such reconsideration hearing, the applicant may present evidence and testimony as to why the license should be granted.

2. If, upon reconsideration, the council again denies the application, the city clerk shall notify the applicant in writing of the reasons therefore and informing the applicant of the right to apply for judicial review in accordance with Section 125.12(2)(d), Wis. Stats.

(c) Consideration for the granting or denial of a license will be based on:

1. Arrest and conviction record of the applicant, subject to the limitation imposed by §§ 111.321, 111.322, 111.335 Wis. Stats.;

2. Whether the licensee has been convicted of or committed offenses substantially related to the licensed activity, pursuant to section 9-34(15).

(d) An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two offenses which are substantially related to the licensed activity within the bar immediately preceding the license application or activities or violations which would result in 50 demerit points under the provisions of section 9-34(3). Because a license is a privilege, the issuance of which is a right granted solely by the council, the council reserves the right to consider the severity and facts and circumstances of the offense when making the determination to grant, deny or not renew a license.

(7) A training course shall be taken by the applicant for an operator's license in accordance with the following:

(a) Except as provided in subsection (2) of this section, the council shall not issue an operator's license unless the applicant has successfully completed a responsible beverage server training course at any location that is offered by a technical college district and that conforms to curriculum guidelines specified by the technical college system board or a comparable training course that is approved by the state department of revenue or the educational approval board, or unless the applicant fulfills one of the following requirements:

1. The person is renewing an operator's license.
2. Within the past two years, the person held a class "A," class "B," or "class C" license or permit or a manager's or operator's license with the State of Wisconsin.
3. Within the past two years, the person has completed such a training course.

(b) The council may issue a provisional operator's license to a person who is enrolled in a training course under subsection (1) of this section and shall revoke that license if the applicant fails to complete the course in which he or she enrolls.

(c) The council may not require that applicants for operator's licenses undergo training in addition to that under subsection (1) of this section, but may require applicants to purchase, at cost, materials that deal with relevant local subjects not covered in the course under subsection (1) of this section.

(8) Each operator's license issued under the provisions of this chapter shall be posted on the premises or be in the operator's possession whenever the operator dispenses beverages.

(9) Violation of any of the terms or provisions of the state law or of this article by any person holding such operator's license shall be cause for revocation, suspension or nonrenewal of the license, pursuant to section 9-34(a).

(10) An Operator's license shall be subject to the provisions of Section 9-34, except that revocation as a matter of course shall be based upon the accrual of 50 demerit points during two license periods.

(Code 1982, § 12.03(20); Ord. No. 1185, § 1 - 15, 12-21-2010)

Sec. 9-37. Procedure upon application.

The procedure upon application for an operator's license shall be as follows:

(1) The council may issue an operator's license, which license shall be granted only upon application in writing on forms to be obtained from the city clerk and only to a person 18 years of age or older. Operator's licenses shall be operative only within the limits of the city.

(2) All full-term operator's license renewals must be applied for by May 1 of the year the license expires to allow sufficient time for conducting property background checks prior to the May meeting of the committee. The fee required by this article must accompany the application.

(3) All applications are subject to an investigation by the chief of police and/or other appropriate authority to determine whether the applicant to be licensed complies with all regulations, ordinances and laws applicable thereto. The police department shall conduct an investigation of the applicant including, but not limited to, requesting information from the state, surrounding municipalities, and any community where the applicant has previously resided concerning the applicant's arrest and conviction record. Based upon such investigation, the chief of police or his designee shall provide a written recommendation for approval or denial of the application.

(Code 1982, § 12.03(21))

Sec. 9-38. Duration.

Standard operator's licenses issued under the provisions of this chapter shall be valid for a period of not more than two calendar years and shall expire on June 30 of each calendar year ending with an odd number. This provision shall also apply to all partial term licenses issued under the provisions of this chapter which partial term licenses shall also expire on June 30 of each calendar year ending with an odd number.

(Code 1982, § 12.03(22))

Sec. 9-39. Operator's license fee; provisional licenses.

The fee for an operator's license and criteria for issuance of provisional licenses are as follows:

(1) Fee. The fee for an operator's license shall be as follows:

- (a) The fee for a standard operator's license shall be \$20.00 for the two-year term plus a nonrefundable investigation fee of \$5.00.
- (b) Partial year licenses may be issued under this article with the license fee prorated according to the following schedule:
 1. Licenses granted for a period of time of less than two years but greater than one year shall be \$20.00, plus the investigation fee.

2. License granted for a period of time of one year or less, including the transition year from current procedure, shall be \$15.00, plus the investigation fee.

(2) *Provisional license.* The city clerk may issue provisional operator's licenses in accordance with § 125.17(5) Wis. Stats. The fee for such license shall be \$15.00. The provisional operator's licenses shall expire 60 days after its issuance or when an operator's license is issued to the holder, whichever is sooner. The city clerk may, upon receipt of an application for a temporary provisional license, issue such a license without requiring the successful completion of the approved program as described in this section. However, such temporary license shall be used only for the purpose of allowing such applicant the privilege of being licensed as a beverage operator pending his successful completion of the approved program. Provisional licenses may not be issued to any persons who have been denied operator's licenses by the council or who have had their operator's licenses revoked or suspended within the preceding 12 months. The city shall provide an appropriate application form to be completed in full by the applicant. The city clerk may revoke a provisional license issued if he discovers that the holder of the license made a false statement on the application. Following completion of the responsible beverage server training course and notification from the school, the license application will be presented to the committee, for referral to the council. If approved by the council, the regular operator's license shall be issued as provided above.

(3) *Refund of fee.* If a license is denied, the license fee shall be refunded. Upon issuance of the license, all fees become nonrefundable, regardless of subsequent use, surrender or termination.

(Code 1982, § 12.03(23))

Sec. 9-40. Issuance or denial of operator's licenses.

An operator's license shall be issued or denied in accordance with the following:

(1) After the council approves the granting of an operator's license, the city clerk shall issue the license. Such licenses shall be issued and numbered in the order they are granted and shall give the applicant's name and address and date of the expiration of such licenses.

(2)

(a) If the application is denied by the council, the city clerk shall give the applicant written notice of the denial, the reasons therefor, and of the opportunity to request a reconsideration of the application by the committee in a closed session. Such notice must be sent by registered mail to, or served upon, the applicant at least ten days prior to the council's reconsideration of the matter. At such reconsideration hearing, the applicant may present evidence and testimony as to why the license should be granted.

(b) If, upon reconsideration, the council again denies the application, the city clerk shall notify the applicant in writing of the reasons therefore and informing the applicant of the right to apply for judicial review in accordance with Section 125.12(2)(d), Wis. Stats.

(3) Consideration for the granting or denial of a license will be based on:

- (a) Arrest and conviction record of the applicant, subject to the limitation imposed by §§ 111.321, 111.322, 111.335 Wis. Stats.;
- (b) Whether the licensee has been convicted of or committed offenses substantially related to the licensed activity, pursuant to section 9-34(15).

(4) An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two offenses which are substantially related to the licensed activity within the bar immediately preceding the license application or activities or violations which would result in 50 demerit points under the provisions of section 9-34(3). Because a license is a privilege, the issuance of which is a right granted solely by the council, the council reserves the right to consider the severity and facts and circumstances of the offense when making the determination to grant, deny or not renew a license.

- (a) No violation may be considered for purposes of this section unless the applicant committed another violation within one year preceding the violation. However, if the applicant committed 2 or more violations within one year, all violations committed within one year of a previous violation may be considered for purposes of determining whether the applicant has been a habitual law offender.

(Code 1982, § 12.03(24); Ord. No. 1171, § 1, 2-9-2010; Ord. No. 1185, § 1 - 15, 12-21-2010)

Sec. 9-41. Training course.

A training course shall be taken by the applicant for an operator's license in accordance with the following:

(1) Except as provided in subsection (2) of this section, the council shall not issue an operator's license unless the applicant has successfully completed a responsible beverage server training course at any location that is offered by a technical college district and that conforms to curriculum guidelines specified by the technical college system board or a comparable training course that is approved by the state department of revenue or the educational approval board, or unless the applicant fulfills one of the following requirements:

- (a) The person is renewing an operator's license.
- (b) Within the past two years, the person held a class "A," class "B," "class A," "class B," or "class C" license or permit or a manager's or operator's license with the State of Wisconsin.
- (c) Within the past two years, the person has completed such a training course.

(2) The council may issue a provisional operator's license to a person who is enrolled in a training course under subsection (1) of this section and shall revoke that license if the applicant

fails to complete the course in which he or she enrolls.

(3) The council may not require that applicants for operator's licenses undergo training in addition to that under subsection (1) of this section, but may require applicants to purchase, at cost, materials that deal with relevant local subjects not covered in the course under subsection (1) of this section.

(Code 1982, § 12.03(25))

Sec. 9-42. Display of license.

Each operator's license issued under the provisions of this chapter shall be posted on the premises or be in the operator's possession whenever the operator dispenses beverages.

(Code 1982, § 12.03(26))

Sec. 9-43. Revocation of operator's license.

Violation of any of the terms or provisions of the state law or of this article by any person holding such operator's license shall be cause for revocation of the license, pursuant to section 9-34(15).

(Code 1982, § 12.03(27))

Sec. 9-45. Regulation of underage persons.

The following shall apply to underage persons:

(1) As provided for in § 125.10(2) Wis. Stats. the provisions of §§ 125.07(1) and (3) and 125.07(4)(a), (b) and (bm) Wis. Stats., regulating the conduct of underage persons, are expressly adopted and incorporated into this article by reference.

(2) False identification, proof of age. The provisions of § 125.085 Wis. Stats. regarding falsification of proof of age are hereby adopted by reference and may be prosecuted as a municipal ordinance violation under this article.

(3) Penalties applying to underage persons. Penalties applying to underage persons shall be as follows:

- (a) Any person violating subsection (1) of this section is subject to the following penalties:
 1. For a first violation, a forfeiture of not less than \$250.00 nor more than \$500.00, suspension of the person's operating privilege as provided under § 343.30(6)(b)1 Wis. Stats., participation in a supervised work program under § 125.07(4)(cg) Wis. Stats., or any combination of these penalties.
 2. For a violation committed within 12 months of a previous violation, either a forfeiture of not less than \$300.00 nor more than \$500.00, suspension of the

person's operating privilege as provided under § 343.30(6)(b)2 Wis. Stats., participation in a supervised work program under § 125.07(4)(cg) Wis. Stats., or any combination of these penalties.

3. For a violation committed within 12 months of two previous violations, either a forfeiture of not less than \$500.00 nor more than \$750.00, revocation of the persons operating privilege under § 343.30(6)(b)3 Wis. Stats., participation in a supervised work program under § 125.07(4)(cg) Wis. Stats., or any combination of these penalties.
 4. For a violation committed within 12 months of three or more previous violations, either a forfeiture of not less than \$750.00 nor more than \$1,000.00, revocation of the person's operating privilege under § 343.30(6)(b)3 Wis. Stats., participation in a supervised work program under § 125.07(4)(cg) Wis. Stats., or any combination of these penalties.
 5. When a court revokes or suspends a person's operating privilege under this subsection, the department of transportation may not disclose information concerning or relating to the revocation or suspension to any person other than a court, district attorney, county, corporation counsel, city, village or town attorney, law enforcement agency or the person whose operating privilege is revoked or suspended. A person entitled to receive information under this subsection may not disclose the information to any other persons or agency.
- (b) Any person violating subsection (2) of this section is subject to the following penalties:
1. For a first violation, a forfeiture of not less than \$100.00 nor more than \$200.00, participation in a supervised work program under § 125.07(4)(cg) Wis. Stats., or any combination of these penalties.
 2. For a violation committed within 12 months of a previous violation, either a forfeiture of not less than \$200.00 nor more than \$300.00, suspension of the person's operating privilege as provided under § 343.30(6)(b)2 Wis. Stats., participation in a supervised work program under § 125.07(4)(cg) Wis. Stats., or any combination of these penalties.
 3. For a violation committed within 12 months of two previous violations, either a forfeiture of not less than \$300.00 nor more than \$500.00, revocation of the person's operating privilege under § 343.30(6)(b)3 Wis. Stats., participation in a supervised work program under § 125.07(4)(cg) Wis. Stats., or any combination of these penalties.
 4. For a violation committed within 12 months of three or more previous violations, either a forfeiture of not less than \$500.00 nor more than \$1,000.00, revocation of the person's operating privilege under § 343.30(6)(b)3 Wis. Stats., participation in a supervised work program under § 125.07(4)(cg) Wis. Stats., or any combination of these penalties.

(Code 1982, § 12.03(30))

Sec. 9-46. Possession or drinking in public places.

Possession or drinking of malt beverages or intoxicating liquor in public places is prohibited as follows:

(1) It shall be unlawful for any person to have in his or her possession any open can, bottle or other container containing fermented malt beverages or intoxicating liquor, or to drink from the can, bottle or other container, on any public street, sidewalk, boulevard, parkway, safety zone, alley or public parking lot, or on any city-owned property, except city parks, but including the Marshfield Fairgrounds, the campuses of the University of Wisconsin Extension and Mid-State Technical College; or in any motor vehicle parked on a public street, alley, or public parking lot.

(2) The council may, at its discretion, permit exceptions to the provision of subsection (1) of this section, by resolution, specifying the time, place and any limitations on the described conduct.

Sec. 9-47. Penalties

Penalties for violations of this article shall be as follows:

(1) Forfeitures for violations of §§ 125.07(1)—(4), 125.09(2), and 125.085 Wis. Stats., adopted by reference by the Code of Ordinances of the City of Marshfield, shall conform to the forfeiture penalty permitted to be imposed for violations of the comparable state statute, including any variations or increases for subsequent offenses.

(2) Any person who shall violate any provision of this article, except as otherwise provided in subsection (1) of this section, or who shall conduct any activity or make any sale for which a license is required without holding such a license, shall be subject to a forfeiture as provided in section 1-05 of this Code of the City of Marshfield.

(3) Nothing in this section shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes.

(Code 1982, § 12.03(31))

Secs. 9-48—9-50. Reserved.

Article III. Miscellaneous Licenses

Sec. 9-51. Dog and cat licensing and regulation.

(1) Individual animal licenses. Every owner of a dog, cat or other animal, except livestock, more than five months of age on January 1 of any year shall annually, at the time and in the manner prescribed by law for the payment of personal property taxes, pay his dog, cat or animal license tax and obtain the license therefor. Any dog, cat or other animal who becomes five months of age after January 1 but before October 1 shall require a license for that year. No such license

shall be issued without proof of compliance with the rabies control provisions in subsection (3) of this section. The word "owner" when used in this section includes every person who owns, harbors or keeps a dog, cat or other animal.

(2) Fees. The license fees are as follows:

- (a) Neutered male dog - \$8.00
- (b) Neutered male cat or other animal - \$6.00
- (c) Un-neutered male dog - \$16.00
- (d) Un-neutered cat or other animal - \$12.00
- (e) Spayed female dog - \$8.00
- (f) Spayed female cat or other animal - \$6.00
- (g) Un-spayed female dog - \$16.00
- (h) Un-spayed female cat or other animal - \$12.00
- (i) Late fee - \$5.00

(3) Rabies control. Requirements for rabies control shall be as follows:

- (a) No person shall keep, house, harbor, maintain or permit any dog, cat or other animal over the age of five months, except livestock, to be maintained within the corporate limits of the city unless such dog, cat or other animal has been vaccinated against rabies. The owner of any dog, cat or other animal housed, kept, maintained or harbored within the corporate limits of the city shall be responsible to ensure that the dog, cat or other animal is effectively immunized against rabies at all times.
- (b) Any person violating subsection (3)(a) of this section may be required to forfeit not more than \$100.00, together with the costs of prosecution, and upon default of the payment of such forfeiture and costs, may be imprisoned in the county jail until such fine and costs are paid, but not to exceed ten days for each such offense.
- (c) The finance director shall not issue any dog, cat or other animal license or collar tag pursuant to § 174.07 Wis. Stats. until such time as the finance director has been presented evidence that the dog, cat or other such animal sought to be licensed has been vaccinated and is effectively immunized against rabies.

(4) Animal pound. The board of public works shall provide a suitable enclosure as a dog and animal pound, which shall be accessible to city residents. The board shall provide a cage or other suitable enclosure to convey such dogs and animals to the pound when necessary.

(5) Procedure for complaints. The police department shall answer and record all complaints or reports of dogs, cats or other animals doing damage or running at large, and shall refer such complaints to the animal control officer who shall investigate such complaints or reports as soon as possible, and use all reasonable effort to impound the dogs, cats or other animals complained

of. In the absence of the animal control officer, the assistant animal control officer or the police department shall investigate all complaints. Such complaints need not be formal, or in writing, nor shall any appearance in court be required. A record of the date of impounding any dog, cat or other animal shall be kept by the animal control officer, with a description of the dog, cat or other animal and the license number of such dog, cat or other animal.

(6) Notice and disposition of impounded animals. Notice and disposition of impounded animals shall be in accordance with the following:

- (a) Notification. The Marshfield Police Department shall notify the owner of any licensed dog, cat or other animal impounded, either personally or by United States mail if his/her name and address is known or can be ascertained, and if such owner be unknown or cannot be ascertained, the Marshfield Police Department shall give notice to the local newspaper and to the radio, giving a description of the dog, cat or other animal, citing where it is impounded and the condition of its release. If, after seven days after such notice, the owner does not claim the dog, cat or other animal, the city shall attempt to find a suitable home for such animal or dispose of it in a humane manner. The Marshfield Police Department shall keep a record of every dog, cat or other animal given away or otherwise disposed of describing the dog, cat or other animal with reasonable certainty of identification and listing the name and address of the party to whom delivered or the manner otherwise disposing of the dog, cat or other animal.
- (b) Release of animal. Release of an animal shall be in accordance with the following:
 - 1. To owner or representative. The animal control officer or the pound to which an animal is delivered may release the animal to its owner or a representative of the owner if the owner presents a release slip from the police department containing the following information: his or her name and address; evidence that the animal is licensed; evidence that the animal is vaccinated against rabies, or evidence from a licensed veterinarian that prepayment has been made for the rabies inoculation of the animal; evidence that the owner has paid the boarding fees and any impoundment fee imposed for the animal.
 - 2. To person other than owner. The animal control officer or the pound to which an animal is delivered may release the animal to a person other than the animal's owner if the person presents a release slip from the police department containing the following information: his or her name and address; evidence in the form of a written statement agreeing to license the animal and to have the animal vaccinated against rabies unless evidence is presented that the animal is already licensed and vaccinated; evidence that a fee of \$5.00 for the animal has been paid. No animal shall be delivered to any person other than the owner unless the owner is unknown or does not claim the animal within seven days after the animal is delivered to the animal control officer or the pound.

(7) Fees and costs of city. In the event the owner is located and notified personally or by mail, he shall pay to the city the sum of \$20.00 plus the costs for boarding such dog, cat or other animal, such sum to be paid to the finance director or police department within ten days of such

notification.

(8) Bitten persons. In case any person shall be bitten or lacerated by any dog, cat or other animal running at large, it shall be immediately reported to the police department, and such dog, cat or other animal shall be seized and confined as promptly as possible and observed by a licensed veterinarian or at the animal pound, to be held awaiting the orders of the physician treating the person bitten or lacerated. The care of any licensed dog, cat or other animal so held shall be paid by the owner thereof, and the care of an unlicensed dog, cat or other animal by the owner or custodian thereof, if found, and if not, by the city. The recommendations of the physician shall determine whether such dog, cat or other animal shall be released or destroyed.

(9) Animal control officer. The council shall have the authority to employ an animal control officer who shall be responsible for enforcing all state statutes and city ordinances pertaining to animal control. This position shall have the powers and duties of a police officer, while so employed and defined in this section, and shall be paid adequate and reasonable compensation as may be determined by the council. Insurance and equipment deemed appropriate shall be determined and provided by the council. This position shall be under the supervision of the mayor and the chief of police, subject to penalties.

(10) Penalty. Any person convicted of a violation of this section, except for subsection (3)(a) of this section, shall be punished as follows:

- (a) For a first offense, by a forfeiture of not less than \$25.00 nor more than \$100.00, plus the costs of prosecution, or in default of the payment of such forfeiture and costs, by imprisonment in the county jail for not less than five nor more than ten days.
- (b) For a second or subsequent offense, by a forfeiture of not less than \$50.00 nor more than \$200.00, plus the costs of prosecution, or, in the default of the payment of such forfeiture and costs, by imprisonment in the county jail for not less than ten days nor more than 15 days for each such offense.

(Code 1982, § 12.04; Ord. No. 1090, § 1, 10-28-2006; Ord. No. 1211, § 1, 9-27-2011)

Sec. 9-52. Animals and fowl.

(1) *Permit required.* No person shall keep any horse, mule, donkey, pony, cow, pig, goat, sheep, swine, fowl or animal raised for fur-bearing purposes within the city, except in an outlying district where there are no residences other than that occupied by the owner or occupant of the premises upon which such animals are kept and within a distance of 200 feet of the structure or fence housing or enclosing such animal, without a special written permit therefor issued by the city clerk, upon recommendation of the building services supervisor and committee on health after an inspection of the premises and a finding of fact to the effect that no nuisance will be created thereby. Such special permit shall be issued for the keeping of such animals on any lot only in the following cases:

- (a) Where such animals were being lawfully kept on such lot prior to the enactment of the ordinance from which this section derives.

- (b) Where such animals were being lawfully kept on such lot after the enactment of the ordinance from which this section derives in an area in which there were no residences within a distance of 200 feet of the structure or fence enclosing such animals, and subsequently one or more residences were built, bringing the structure or fence housing the animals within the restricted distance.

(2) *Term of permit.* Permits to keep animals under this section shall be renewed annually, and only after a reinspection by the building services supervisor. No fee shall be charged for such permits.

(3) *Stables and enclosures.* Standards for stables and enclosures shall be as follows:

- (a) *Construction.* Every stable or other building wherein any animal or fowl covered under this section is kept shall be constructed of such material and in such manner that it can be kept clean and sanitary at all times.

- (b) *Disposal of wastes.* Every such stable or other building occupied by authority of special permit shall, if located within 200 feet of any tenement or apartment house; hotel; restaurant; boardinghouse; retail foodstore; building used for school, religious, or hospital purposes; or residence other than that occupied by the owner or occupant of the premises upon which such creatures are kept shall be provided with a watertight and flytight receptacle for manure, of such dimensions as to contain all accumulation of manure, which receptacle shall be emptied sufficiently often and in such manner as to prevent its becoming a nuisance. Such receptacle shall be kept securely covered at all times, except when opened during the deposit or removal of manure or refuse. No manure shall be allowed to accumulate except in such receptacle.

- (c) *Other improvements which may be required.* The building services supervisor shall, if he deems such measures necessary in order to avoid a nuisance, require that any such building be screened tightly against flies, and that it be provided with running water, drain sewer connection, flooring impervious to water, and that such other measures be taken as may be necessary to ensure proper protection to public health and safety, as conditions precedent to the issuance of any special permit.

(d) *Small animals and fowl.* Standards for enclosures for small animals and fowl shall be as follows:

1. *Structures.* No chicken coop, dovecote, dog kennel built for or intended for the use of more than two dogs, rabbit warren built for or intended for the use of more than two rabbits, or other yard or establishment where small animals or fowl are kept shall be maintained, nor shall more than two dogs, cats, rabbits, guinea pigs, nor any ducks, geese, chickens, or other fowl be kept, on any premises within the city limits, except in outlying districts where there is no tenement or apartment house; hotel; restaurant; boardinghouse; retail foodstore; building used for school, religious or hospital purposes; or residence other than that occupied by the owner or occupant of the premises upon which such yard, establishment or creatures are maintained or kept, within a radius of 200 feet of such yard or establishment or structure or area enclosing such creatures, without a special written permit issued

d by the building services supervisor after an inspection of the premises and a finding of fact to the effect that no nuisance will be created thereby. Such special permit shall be issued for the maintenance of any such yard or establishment or fowl or animals which were being lawfully maintained or kept on such lot prior to the enactment of the ordinance from which this section derives.

2. *Existing uses.* Where such yard or establishment or fowl or animals were being lawfully maintained or kept on such lot prior to the enactment of the ordinance from which this section derives in an area in which there were no such buildings or residences within a distance of 200 feet of the structure enclosing such animals, and subsequently one or more such buildings or residences were built bringing the structure or area housing the animals within the restricted distance. Such permit shall be for the term of one year and shall not be renewed without a reinspection. The provisions of this subsection shall not apply to the keeping or maintaining of guinea pigs or other small animals for bona fide medical research purposes by duly qualified persons, or to the keeping or maintaining of small animals or fowl for bona fide pet shop purposes in a B-2 or a B-4 zoning district under the zoning code of the city where such pet shop is located not closer than 50 feet from any building or place as designated in this subsection; provided that such animals are kept and maintained indoors, and provided further that the keeping or maintaining of such small animals does not create a nuisance.

- (e) *Sanitation.* All structures, fences, coops or yards where animals or fowl are kept or permitted to be kept shall be maintained in a clean and sanitary condition, devoid of rodents and vermin, and free from objectionable odors. The entire walls, ceilings, floors, parts and appurtenances of all such structures shall be whitewashed or painted annually as the health officer shall direct. The building services supervisor, upon the complaint of any individual, shall inspect any such structure or premises and issue any order necessary to carry out the provisions of this section.

(4) *Wild animals.* No person shall keep any wild animal within the city, except in the zoo facility or as otherwise permitted. For purposes of this section, "wild animal" means any live monkey or other nonhuman primate, raccoon, skunk, fox, wolf, poisonous snake, leopard, panther, tiger, lynx, any warm-blooded animal normally found in the wild state, or any hybrid mix between a normally domestic animal species and such animals normally found in the wild state.

(Code 1982, § 12.08)

Sec. 9-53. Transient merchants.

(1) *Registration required.* It shall be unlawful for any transient merchant to engage in sales within the City of Marshfield without being registered for that purpose as provided in this section.

(2) *Definitions.* For purposes of this section, the following definitions shall apply:

Charitable organization shall include any benevolent, philanthropic, patriotic, or eleemosynary person, partnership, association or corporation, or one purporting to be such. Clerk means the city clerk.

Merchandise shall include personal property of any kind, and shall include merchandise, goods, or materials provided incidental to services offered or sold. The sale of merchandise includes donations required by the seller for the retention of goods by a donor or prospective customer.

Permanent merchant means any person who, for at least six months prior to the consideration of the application of this section to such merchant, (i) has continuously operated an established place of business in the local trade area among the communities bordering the place of sale, or (ii) has continuously resided in the local trade area among the communities bordering the place of sale and now does business from his/her residence.

Transient merchant means any individual who engages in the retail sale of merchandise at any place in this state temporarily, and who does not intend to become and does not become a permanent merchant of such place. For purposes of this section, sale of merchandise includes a sale in which the personal services rendered upon or in connection with the merchandise constitutes the greater part of value for the price received, but does not include a farm auction sale conducted by or for a resident farmer of personal property used on the farm, or the sale of produce or other perishable products at retail or wholesale by a resident of this state.

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

- (a) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes;
- (b) Any person selling merchandise at wholesale to dealers in such merchandise;
- (c) Any person selling agricultural products which the person has grown;
- (d) Any permanent merchant or employee thereof who takes orders at the home of the buyer for merchandise regularly offered for sale by such merchant in this city and who delivers such merchandise in their regular course of business;
- (e) Any person who has an established place of business where the merchandise being sold is offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested, a home visit;
- (f) Any person who has had, or one who represents a company which has a current open account with a city customer;
- (g) Any person selling or offering for sale a service unconnected with the sale or offering for sale of merchandise;
- (h) Any person selling creations of art or craft, whether paintings, drawings, photographs, pottery, other goods or similar works of art, provided that such creations may be sold only by the creating artist and only in locations not otherwise prohibited under this Code;

- (i) 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;
 - (j) 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 clerk proof that such charitable organization is registered under § 440.42 Wis. Stats. Any charitable organization engaging in the sale of merchandise and not registered under § 440.42 Wis. Stats., or which is exempt from that statute's registration requirements, shall be required to register under this section. This exemption shall also extend to an individual defined in the term "transient merchant" in subsection (2) of this section who is under the direct sponsorship and supervision of a charitable organization, but such organization shall be entitled to an exemption of this kind for not more than four events per year and shall pay a fee for such privilege of \$25.00 per year;
 - (k) Any person who claims to be a permanent merchant, but against whom complaint has been made to the clerk that such person is a transient merchant; provided that there is submitted to the clerk proof that such person has leased for at least one year, or purchased, the premises from which he/she has conducted business in the market area for at least six months prior to the date the complaint was made;
 - (l) Any individual licensed by an examining board as defined in § 15.01(7) Wis. Stats.;
 - (m) This section does not apply to transient merchants while doing business at special events which are under the supervision and control of a local organization or business, or during special events specifically authorized by the council, provided that:
 - 1. Transient merchants exempt under this section must be sponsored by a stated local organization or business.
 - 2. The sponsoring organization or business shall be responsible for all activities of the transient merchant.
- (4) *Registration.* Procedures for registration shall be as follows:
- (a) Applicants for registration must complete and return to the clerk, at least 15 days prior to issuance of the registration, a form furnished by the clerk which shall require the following information:
 - 1. The complete name, permanent address, telephone number and temporary address of each person or employee to be engaged in sales activities.
 - 2. A physical description of each person or employee to be engaged in sale activities, including age, height, weight and color of hair and eyes.
 - 3. Name, address and telephone number of the person that the transient merchant represents or is employed by, or whose merchandise is being sold.
 - 4. Temporary address and telephone number from which business will be conducted, if any.

- 5. Nature of business to be conducted and a brief description of the merchandise, and any services offered.
- 6. Proposed methods of delivery of merchandise, if applicable.
- 7. Make, model and license number of any vehicle to be used by the applicant in the conduct of his/her business.
- 8. Most recent cities, villages or towns, not to exceed three, where the applicant conducted his/her business.
- 9. Place where the applicant can be contacted for at least seven days after leaving this City.
- 10. Statement as to whether the applicant or any employee to be engaged in sales has been convicted of any crime or ordinance violation related to the applicant's transient merchant business within the last five years, and the nature of the offense and the place of conviction.

(b) Applicants shall present to the clerk for examination:

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

(5) License fees. License fees shall be as follows:

- (a) Application for a temporary transient merchant license may be made for a period of two days, four days, or six months, or for an annual license. Time limits for temporary licenses are for consecutive days.

(b) The fee for issue of a transient merchant license shall be as follows:

- 1. Two-day temporary license \$ 50.00
- 2. Four-day temporary license. 100.00
- 3. Six-month temporary license 250.00
- 4. Annual license. 500.00

- (c) In addition to license fees, the applicant shall pay an investigation fee of \$10.00 per each employee to be engaged in sale activities, which fee shall be nonrefundable if the application is denied.

- (6) *Bond.* A bond shall be required as follows:
- (a) A transient merchant shall post a cash bond in lawful money of the United States in the amount of \$500.00 with the clerk at the same time the registration form is filed with the clerk. A transient merchant shall name all persons upon whose behalf the bond shall be posted. Buyers or donors who wish to cancel their transaction or claim a refund as permitted in § 423.202 Wis. Stats. may do so by presenting within the time limits to the clerk the goods purchased or the credit papers, and the clerk shall refund to the donor/buyer the amount paid to the seller. The clerk shall deduct from the bond any amount so refunded plus \$5.00 for each refund made as a handling charge. The clerk shall store the goods and papers upon which the refund was grounded, and notify the seller, by first class mail, at the address provided in the registration form. Twenty days after such notice is mailed the clerk may sell or destroy such goods and papers, crediting any money received therefor to the seller's bond account. Once the bond has been depleted below \$400.00 the direct seller shall, upon written notice thereof by first class mail, within ten days after mailing of such notice, replenish the bond or forfeit the registration. No direct seller shall conduct activities within the city once such notice has been mailed until such time as the fund is replenished unless the registration is revoked, in which case no further sales shall take place.
 - (b) As an alternative to the cash bond required in subsection (6)(a) of this section, the transient merchant may present a surety bond in the amount of \$2,000.00 from a reputable bonding firm. The bond shall name all persons for whom the bond is posted. Refunds to customers for any returns of merchandise to the city clerk shall be paid by the bonding firm or transient merchant to such customers. Claims for refunds shall be within the time limits of § 423.203 Wis. Stats. The clerk shall store the goods and papers upon which the refund was grounded and notify, by first class mail, the seller and bonding firm at the address provided in the registration form and on the bond. No transient merchant shall conduct activities in the city if evidence of a refund is not received by the clerk within 20 days of the mailing of such notice of returned merchandise. The clerk shall retain such returned goods until sufficient evidence is received that money has been refunded to those buyers who returned merchandise. Upon receipt of sufficient evidence, the clerk shall advise the transient merchant by first class mail to obtain the stored merchandise. Twenty days after such notice is mailed the clerk may sell or destroy such goods and papers, with any money received from the sale to be paid to the transient merchant or the bonding company based on payment of the refund to the customer.
 - (c) The applicant shall sign a statement appointing the clerk his/her agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant, in the event the applicant cannot, after reasonable effort, be served personally.
 - (d) The cash bond may be refunded to a transient merchant, together with accrued interest, upon written request, provided such refund will not be made earlier than 90 days after such merchant has ceased doing business in the city.

(7) *Record check.* A record check shall be made in accordance with the following:

- (a) Upon payment of the fee and the signing of the statement, the clerk shall refer it immediately to the chief of police who may make a complete records check of the statements made in such registration. The registration shall be valid for the licensing dates applied for, not to exceed one year from date of issue subject to subsequent refusal as provided in subsection (7)(b) of this section. If the merchant shall apply for a second temporary license in the same calendar year, and the persons who shall be engaged in sales under such license are identical to those persons identified on the prior application for a temporary license, the city may, at the city clerk's discretion, waive the investigation fee required under subsection (5)(c) of this section.
- (b) The clerk shall refuse to register the applicant if it is determined, pursuant to the investigation above, that: the application contains any material omission or materially inaccurate statements; complaints of a material nature have been received against the applicant by authorities in the most recent cities, villages or towns, in which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation or ordinance violation within the last five years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or the applicant failed to comply with any applicable provision of subsection (4)(b) of this section.
- (c) If the chief of police determines from the investigation of the application that the interest of the city or of the inhabitants of the city require protection against possible misconduct of the licensee, the chief of police may recommend to the license committee that a cash bond of \$500.00 be required running to the city conditioned upon the licensee's full compliance with the ordinances of the city and guaranteeing to any citizen of the city doing business with him that the property purchased will be delivered according to the representation of the applicant provided that such action to recover on any such bond shall be commenced within one year after the expiration of the license of the principal.

(8) *Appeal.* Any person refused or denied registration may appeal the denial through the appeal procedure provided by ordinance or resolution of the council, or if none has been adopted, under the provisions of §§ 68.07—68.16 Wis. Stats.

(9) *Regulation of transient merchants.* Transient merchants shall comply with the following:

- (a) Prohibited practices. Prohibited practices are the following:
 - 1. A transient merchant shall be prohibited from: calling at any dwelling or other place between the hours of 9:00 p.m. and 9:00 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.
 - 2. A transient merchant shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity, or characteristics of any merchandise offered for sale; the purpose of his/her visit; his/her identity or the identity of the

organization he/she represents. A charitable organization transient merchant shall specifically disclose what portion of the sale price of the merchandise being offered will actually be used for the charitable purpose for which the organization is soliciting. Such portion shall be expressed as a percentage of the sale price of the merchandise.

3. No transient merchant shall conduct sales on any sidewalks or streets within the city. Where sales are made from vehicles all traffic and parking regulations shall be observed.
4. No transient merchant shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a 100-foot radius of the source.
5. No transient merchant shall allow rubbish or litter to accumulate in or around the area in which he/she is conducting business.

(b) *Disclosure requirements.* Disclosure requirements are as follows:

1. After the initial greeting and before any other statement is made to a prospective customer, a transient merchant shall expressly disclose his/her name, the name of the company or organization he/she is affiliated with, if any, and the identity of merchandise or services he/she offers to sell and present the permit issued by the city clerk's office.
2. If any sale of merchandise is made by a transient merchant, or any offer for the later delivery of merchandise is taken by the seller, the buyer shall have the right to cancel the transaction if it involves the extension of credit or is a cash transaction of more than \$25.00, in accordance with the procedures set forth in § 423.203 Wis. Stats.; and the seller shall give the buyer two copies of a typed or printed notice of that right. Such notice shall conform to the requirements of § 423.203(1)(a), (b) and (c), and (2) and (3) Wis. Stats.
3. If the transient merchant takes a sales order for the later delivery of merchandise, he/she shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement; the amount paid in advance whether full, partial, or no advance payment is made; the name, address and telephone number of the seller; the delivery or performance date; and whether a guarantee or warranty is provided and, if so, the terms thereof.
4. If the business is being conducted from a vehicle or stationary structure, the certificate of registration or facsimile thereof shall be displayed prominently thereon. The permit issued by the clerk's office shall be displayed also.

(10) *Records.* The chief of police shall report to the clerk all convictions for violation of this section, and the clerk shall note any such violation on the record of the registrant convicted.

(11) *Revocation of registration.* Procedures for the revocation of the registration shall be as follows:

- (a) Registration may be revoked by the council after notice and hearing, if the registrant made any material omission or materially inaccurate statements in the application for registration; made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in transient sales; 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 selling.
- (b) Written notice of the hearing shall be served personally on the registrant at least 72 hours prior to the time set for the hearing; such notice shall contain the time and place of the hearing and a statement of the acts upon which the hearing will be based.

(Code 1982, § 12.05; Ord. No. 959, § 4—6, 4-9-2002; Ord. No. 974, § 1, 2, 4-8-2003)

Sec. 9-54. Circuses and amusement.

(1) *License required.* No person shall exhibit to public view or use, for gain within the city, any circus, pony ring, shooting gallery, carousel, cane rack, doll rack or other similar device for amusement, without first having obtained a license therefor as provided in this section.

(2) *Classes of licenses and fees.* There shall be the following classes and denominations of licenses which shall be granted by the city clerk with the approval of the license committee:

- (a) *Carnivals, caravans and indoor circuses.* The fee for carnivals, caravans and indoor circuses shall be \$2.00 per day for each riding device, show, stand or concession.
- (b) *Shooting galleries, carousels, cane racks, doll racks, pony rides and similar devices.* The fee for shooting galleries, carousels, cane racks, doll racks, pony rides and similar devices shall be \$2.00 per day for each device, whether connected with a carnival or not.
- (c) *Lunch wagons, popcorn wagons or food stands.* The fee for lunch wagons, popcorn wagons or food stands shall be \$2.00 per day for each wagon or stand, except stands located in permanent buildings which are assessed as real estate or personal property for tax purposes.
- (d) *Maximum annual fee.* The maximum fee for each device or amusement licensed under this section shall be \$15.00 per year.

(3) *License application and issuance.* All applications for licenses under this section shall be made to the city clerk, and the clerk shall give to the licensee a certificate, setting forth the name of the licensee, the purpose and time for which granted, and the amount to be paid for the license fee. Upon the showing of due proof that such amount has been paid the clerk shall issue the license, which shall be valid only for a period of time shown. Such licenses shall not be assignable.

(4) *Exempted nonprofit functions.* No license shall be required for activities under this section when gross revenues from such circuses and amusements are given directly to or made by a

nonprofit corporation located in the city.

(5) *Penalty.* Penalty for violation of any provision of this section shall be as provided in section 1-05 of this Code. Each day on which a violation continues shall constitute a separate offense.

(Code 1982, § 12.06)

Sec. 9-55. Perishable foods license required.

(1) A license shall be required for the operation of a meat market, grocery store, restaurant, delicatessen, soda fountain or any other place of business where milk, meats or any other perishable food is sold or dispensed in the City of Marshfield.

(2) The fee shall be \$25.00.

(Code 1982, § 12.07)

Sec. 9-56. Taxicabs.

(1) *License required.* No person shall operate a public vehicle, taxicab or public livery or automobile for hire upon the streets of the city without first having obtained a license therefor from the city. Such licenses shall be issued under a full year's fee for terms of one year, to expire on December 31.

(2) *Conditions for issuance of license.* Conditions for issuance of the license shall be as follows:

- (a) *Generally.* Such license shall be issued and granted only upon condition that the applicant shall first obtain from a reliable insurance company, licensed to do business in the state, and kept in force during the continuance of such license, a policy of liability insurance. The liability limits shall be \$100,000.00 for injury to any one person and \$300,000.00 for damages arising out of any single accident and \$100,000.00 to insure the payment of damages to property resulting from negligence of the operator of a vehicle, taxicab or automobile. All applications for licenses for the operation of taxicabs or other public vehicles under this section shall be approved by the license committee before a license is issued. The committee shall require the applicant to furnish proof that public convenience and necessity require the licensing of the applicant. The license committee may require proof of financial responsibility of the applicant in addition to the insurance required by this subsection. The applicant shall also file with this application a statement of the number of vehicles to be operated under such license together with a complete description of each vehicle, and such data shall be filed with the city clerk. Should an applicant desire to add to such license, he shall make and file any additions or substitutions with the city clerk.
- (b) *Suspension.* The chief of police shall have authority to suspend any license granted under this section if, upon inspection of equipment as provided in this section, he shall determine that such equipment is unsafe or dangerous for the purpose of transporting people or a menace to traffic safety. Such suspension shall be effective for periods up to

48 hours, within the discretion of the chief of police, or until action may be taken by a special meeting of the license committee, which shall have authority to revoke or suspend indefinitely any license granted under this section after due hearing upon notice of 24 hours to the licensee.

(3) *License term; renewals.* All licenses shall be granted for periods not exceeding one year. Applications for renewals of licenses will be heard by the license committee during the period commencing November 15 and concluding November 30. The time and place of such hearing shall be posted for a period of at least one week prior to the hearing in the city hall, and notice shall be given by publication at least three times in the official city paper. The license committee shall report its findings based on such hearing to the council at its regular December meeting and recommend the renewal or discontinuance of all licenses which shall be effective at the time of the December meeting and for renewal of which application has been made. Application for renewals of all licenses must be made prior to November 15. The license committee, on receipt of the application, shall fix a date for the hearing thereof and shall notify the applicant of such date.

(4) *License application procedure.* Application for a license to operate public vehicles, taxicabs or automobiles for hire upon the streets of the city shall be made by the owner of the public vehicle, taxicab or automobile upon forms to be furnished by the city clerk. Such application shall contain the full name and address of the owner of the public vehicle, taxicab or automobile and the name of the insurance company carrying the insurance, the policy number, the amount of the insurance carried, and date of expiration of policy, and such application shall be subscribed and sworn to by the applicant before the city clerk.

(5) *License fee.* After the license committee has held a hearing on the application and has recommended that the license be granted, then upon the payment of the license fee of \$25.00, regardless of the number of taxicabs being operated by any one licensee, the license shall be issued by the city clerk. When so licensed, there shall be delivered to the licensee a license card containing the official license number of the license. Should the license committee determine that the public convenience and necessity does not require an additional taxi service within the city, the committee may refuse to issue a license to any applicant, even though the applicant is otherwise qualified to receive a license.

(6) *Vehicle identification.* All vehicles used for the carrying of passengers for hire shall be conspicuously marked on the right and left side with the name of the owner of the vehicle. Such letters and numbers shall be not less than three inches in length, and such letters and numbers shall be of a light color on a dark background, or dark color on a light background. A card containing the name of the owner, license number, and the number of the vehicle shall be placed and at all times kept in a conspicuous place inside of such vehicle. No vehicle shall be used for carrying passengers until the foregoing provisions have been complied with.

(7) *Rates.* Rates to be charged, or changes therein, as made from time to time by the operator, shall be filed with the city clerk and shall be open for public inspection. The operator shall display a list of rates to be charged for carrying passengers in a prominent place within the vehicle so licensed, where it may be plainly seen by all passengers.

(8) *Register.* The city clerk shall keep a register of the name of each person owning a taxicab license under this section together with the license number.

(9) *Definitions.* The term "taxicab," "automobile" or "public vehicle" as used in this section shall be construed to include and mean all vehicles propelled by motive power engaged for the purpose of carrying persons for hire upon the streets of the city, and which is operated by the owner, his agent or employee. Nothing in this section shall be deemed or construed as being applicable to any intercity bus line, hotel bus line, street railway or bus line, hospital ambulance, hearse or motor vehicle operated by the undertakers of this city in their usual business.

(10) *Additional regulations.* Additional regulations shall be as follows:

- (a) All licensees under this section shall keep all vehicles used in the taxi service or for the conveyance of passengers in a clean and sanitary condition at all times and shall keep such vehicles in proper repair and maintenance and operate such vehicles upon the streets of the city in a safe and careful manner.
- (b) No driver shall unreasonably refuse to convey a passenger to any destination requested by such passenger within the city limits.
- (c) All persons holding a taxicab license shall offer continuous telephone service and taxicab service between the hours of 6:00 a.m. and 12:00 midnight each day.

(11) *Revocation of license.* Any person found guilty of a violation of this section may have his license revoked, and when so revoked, such person shall not be entitled to another license for one year from the date of such revocation.

(12) *Prior rights saved.* Any person now having a license to operate a taxicab service or other service under the terms of previously published ordinances of the city shall, if otherwise qualified under the terms of this section, be entitled to obtain a license under these provisions. Any new applicant for a license thereafter shall be required to prove that the public necessity and convenience requires the licensing of a new taxicab service in the city before such applicant shall be entitled to a license.

(13) *Operator's permit required.* No person shall operate any vehicle for the transportation of passengers for hire within the limits of the city until he shall have obtained a taxicab driver's permit from the chief of police.

- (a) *Qualifications.* No taxicab driver's permit shall be granted to any person under 18 nor, subject to the provisions of § 111.335 Wis. Stats., to any persons who have been convicted by a court of competent jurisdiction for any offense involving moral turpitude or for driving a motor vehicle as a conveyance of persons for hire while under the influence of intoxicating liquor, while such conviction remains of record and is not reversed; provided, however, that a permit to a person within such prohibited class may be granted under such circumstances within the discretion of the chief of police for good cause shown where more than five years have elapsed from the date of the expiration of sentence, except as to persons convicted of rape, murder, manslaughter or sex offenses.

In all cases, consideration shall be upon an individual basis.

- (b) *Fee.* Each application for a taxicab driver's permit shall be accompanied by a fee of \$15.00. The applicant shall also pay such fee as the city is charged for a state criminal history check on the applicant.
- (c) *Issuance.* Upon granting of such permit pursuant to this subsection, the applicant shall receive from the chief of police a written permit to which shall be attached a photograph of the applicant.
- (d) *Posting of permit.* The permit shall be placed in a conspicuous place in the vehicle operated by such driver, and in addition thereto, a metal badge shall be worn openly upon the person of such applicant while operating any motor vehicle of passengers for hire.
- (e) *Fingerprinting required.* The chief of police shall cause the fingerprints of the permittee to be taken and filed.
- (f) *Expiration of permit.* Such permit shall expire December 31 each year.

(14) *Penalty.* Any person found in violation of provisions of this section shall be subject to a penalty as set forth in section 1-05 of this Code, in addition to license revocation.

(Code 1982, § 12.13)

Sec. 9-57. Commercial haulers.

(1) *License required.* No person shall engage in, exercise or carry on a trade or business of picking up and hauling garbage and recyclable materials in the city without first obtaining a license therefor as provided in this section.

(2) *Vehicle regulations.* Regulations for vehicles shall be as follows:

- (a) *Construction.* All trucks or other vehicles, whether used by garbage collectors or by persons hauling their own garbage, shall be of substantial construction, and the body shall be watertight or shall be of a type commonly known as packers. No vehicle shall be loaded so that the contents shall fall or blow from the vehicle. In the case of combustible refuse, the vehicles shall be equipped with a covering or the combustible refuse covered with a tarpaulin or a similar covering in such a manner as to prevent the combustible refuse from falling or blowing from the vehicle.
- (b) *Parking restrictions.* No person shall park or cause to be parked any such vehicle as described in subsection (2)(a) of this section and used by such garbage collectors in any single-family residential district, two-family residential district, multiple-family residential district or mobile home residential district of the City of Marshfield for more than one hour.

(3) *License fee.* The fee for the license required by this section shall be \$50.00 per vehicle each year. Such license shall expire on January 1 after its issuance, and no reduction shall be made in such fee for a period of less than one year. The fee shall be paid to the finance director prior to the issuance or renewal of such license. In the event a license is being transferred from a licensee to a third party, such transfer, if approved, shall be made without an additional fee except that \$10.00 shall be paid to cover the cost of the transfer.

(4) *License application.* Application for such license shall be made in writing to the city clerk on forms to be furnished by the clerk and approved by the license committee and the chief of police. The applicant shall furnish such information as may be required to prove the applicant to be of good character, in addition to any other information deemed necessary by the license committee and the chief of police. Upon approval of the application by the license committee and the chief of police and upon the filing of the bond required in subsection (5) of this section, the license may be issued by the city clerk.

(5) *Bond.* Persons desiring a license required by this section shall, prior to the issuance thereof, enter into a bond to the city with such sureties as may be approved by the license committee in the penal sum of \$200.00, conditioned for the observation of all codes of the city now in force or hereafter passed regulating or pertaining to such business.

(6) *Recycling education of customers.* All persons engaged in the hauling of garbage or recyclable materials within the city shall be responsible for providing education and information to owners or agents of multifamily dwellings, and nonresidential facilities and properties, regarding the proper recycling techniques and practices.

(7) *Information on license.* The license shall state the name of the licensee, the fee, the address of the place of business, type of business to be carried on and the names of the bondsmen.

(8) *Transfer of license.* No license shall be transferred from the licensee to any other person without the approval of the license committee or the chief of police.

(9) *Hauler restrictions.* All haulers or contractors engaged in the hauling of garbage or recyclable materials within the City of Marshfield may not dispose in a landfill or burn in a solid waste facility any recyclable materials generated in the City of Marshfield. This includes any recyclable materials separated from solid waste and/or solid waste that contains recyclable material. Haulers shall not compact glass with paper during collection and transport of recyclable materials to a processing facility or market and shall maintain recyclable materials in a marketable condition.

(10) *Monthly reporting.* All haulers or contractors engaged in the hauling of garbage or recyclable material within the City of Marshfield shall provide to the street superintendent a monthly report for solid waste tonnage and recyclable tonnage collected in the City of Marshfield from all sources.

(Code 1982, § 11.17)

Sec. 9-58. Pawnbrokers, secondhand article and jewelry dealers.

(1) *License required.* No person shall engage in business for the purchase and resale of used personal property to include lending on such personal property (pawnbrokering) without first obtaining a license to engage in such sales and/or lending.

(2) *Statutes adopted.* The provisions of § 134.71 Wis. Stats., as such section now exists and as hereafter amended, are hereby adopted in full as provided at § 134.71(14) Wis. Stats., and violation of such statute may be enforced as a violation of this section of the Municipal Code.

(3) *Bond required.* With respect to the application for a secondhand article dealer's and/or secondhand jewelry dealer's license, pursuant to § 134.71(7)Wis. Stats., the applicant provides to the municipality a surety bond of \$200.00 for the observation of all municipal ordinances relating to secondhand article dealers and secondhand jewelry dealers. Provided, however, that upon application by the licensee after a period of one year, a personal bond may be accepted in lieu of the foregoing surety bond, if the license committee finds that the licensee has not violated any such ordinances during the previous year.

(Code 1982, § 12.14)

Sec. 9-59. Tobacco license.

(1) *License required.* Pursuant to § 134.65 Wis. Stats., no person shall engage in the retail sale of cigarettes, cigars or any other tobacco product, without first obtaining a license to engage in such sales.

(2) *Fees.* The fee for a license to engage in tobacco products sales shall be \$100.00 for each sales location.

(3) *Additional location.* Each separate vending machine for sale of tobacco products shall require a separate license, unless collocated with another machine or in a licensed premises where such products are sold over the counter.

(4) *Supervision.* All vending machines for sale of tobacco products shall be located in clear view of a person in charge of such premises, who shall be responsible for controlling sales of such products, and specifically to ensure compliance with § 134.66 Wis. Stats., restricting sale of tobacco products to any person under the age of 18 years.

(Ord. No. 953, § 2(12.09), 1-22-2002)

Sec. 9-60. Payday Lenders

(1) Definitions

Payday Lender means a person or business that makes payday loans.

Payday Loan shall have the meaning given in section 138.14 (1) (k), Wis. Stats.

(2) *Permit Required.* No payday lender that was not conducting business from its current location on January 1, 2011 may conduct business within the City of Marshfield without a permit, approved by the Marshfield Common Council.

a. All payday lenders including existing businesses, new businesses, and businesses that change addresses shall pay a one-time nonrefundable fee of \$50 and apply for a permit through the Zoning Administrator.

b. The application shall be reviewed by the Judiciary, License, and Cemetery Committee with a recommendation by the Zoning Administrator.

c. In order to qualify for a permit the payday lender business location must meet the requirements of §18-91 of the Municipal Code.

(Ord. No. 1221, § 1, 2, 2-28-2012)

Secs. 9-61—9-70. Reserved.

Article IV. Junkyards

Sec. 9-71. License required.

No person shall operate within the city any scrap metal business or motor vehicle salvage business without first having obtained a license therefor, with approval of the council, upon review and recommendation of the Judiciary, License and Cemetery Committee. Operators of any scrap metal business must be in full compliance of this article and Sec. 134.405 Wis. Stats. Operators of any motor vehicle salvage business must be in full compliance with this article and Subchapter VII of Chapter 218 Wis. Stats. The licensing requirement shall not apply to:

(1) Motor vehicle dealers licensed under State Stat. 218.0114 who remove, but do not sell, as such, parts of motor vehicles prior to sale of such vehicles to motor vehicle salvage dealers or scrap metal processors.

(2) Scrap metal processors and portable scrap metal crushers who accept motor vehicles from only:

a. Licensed motor vehicle dealers;

b. Licensed motor vehicle salvage dealers; or

c. Municipalities, all of whom shall submit titles and reports to the department and retain records.

(3) Any person who acquires a motor vehicle for salvage purposes for his or her own use and then sells the remainder to a motor vehicle salvage dealer or to another person who will further use that motor vehicle for salvage purposes for his or her own use before selling it to a motor vehicle salvage dealer.

(4) Collectors of special interest vehicles who purchase or sell parts cars in compliance with State Stats. 341.266.

(5) Businesses meeting the definition of Metal Recycling Collector or Metal Materials Dealer.

(Code 1982, § 12.10(1))

Sec. 9-72. Definitions.

For purposes of this article, the following definitions shall apply:

1) *Commercial account* means a commercial enterprise with which a scrap metal dealer maintains an ongoing and documented business relationship.

(2) *Commercial enterprise* means a corporation, partnership, limited liability company, business operated by an individual, association, state agency, political subdivision, or other government or business entity, including a scrap metal dealer.

(3) *Ferrous scrap* means scrap metal, other than scrap metal described in pars. (4) (7) and (8), consisting primarily of iron or steel, including large manufactured articles that may contain other substances to be removed and sorted during normal operations of scrap metal dealers.

(4) *Metal article* means a manufactured item that consists of metal, is usable for its original intended purpose without processing, repair, or alteration, and is offered for sale for the value of the metal it contains, except that *metal article* does not include antique or collectible articles, including jewelry, coins, silverware, and watches.

(5) *Metal recycling collector* means any fixed collection site for aluminum beverage cans or any temporary collection site that purchases nonferrous scrap, aluminum beverage cans, household items, brass, copper, aluminum, and proprietary articles. All temporary collection sites shall operate no more than 6 hours at one site in a 24-hour period.

(6) *Metal materials dealer* means any business at a fixed location that purchases nonferrous scrap, aluminum beverage cans, household items, brass, copper, aluminum, and proprietary articles. Storage of all materials on site must be in an enclosed structure.

(7) *Nonferrous scrap* means scrap metal consisting primarily of metal other than iron or steel, but does not include any of the following:

- a. Aluminum beverage cans.
- b. Used household items.
- c. Items removed from a structure during renovation or demolition.
- d. Small quantities of nonferrous metals contained in large manufactured items.

(8) *Proprietary article* means any of the following:

- a. A metal article stamped, engraved, stenciled, or otherwise marked to identify the article as the property of a governmental entity, telecommunications provider, public utility, cable operator, as defined in Sec. 66.0420 (2) (d) Wis. Stats., or an entity that produces, transmits, delivers, or furnishes electricity, or transportation, shipbuilding, ship repair, mining, or manufacturing company.
- b. A copper conductor, bus bar, cable, or wire, whether stranded or solid.
- c. An aluminum conductor, cable, or wire, whether stranded or solid.
- d. A metal beer keg.
- e. A manhole cover.
- f. A metal grave marker, sculpture, plaque, or vase, if the item's appearance suggests the item has been obtained from a cemetery.
- g. A rail, switch component, spike, angle bar, tie plate, or bolt used to construct railroad track.

(9) *Scrap metal* means a metal article; metal removed from or obtained by cutting, demolishing, or disassembling a building, structure, vehicle, or manufactured item; or other metal that is no longer used for its original intended purpose and that can be processed for reuse in a mill, foundry, or other manufacturing facility.

(10) *Motor vehicle salvage dealer* means a person who purchases and resells motor vehicles for wrecking, processing, scrapping, recycling or dismantling purposes or who carries on or conducts the business of wrecking, processing, scrapping or dismantling motor vehicles or selling parts of motor vehicles so processed. This term shall not include the storage of an inoperable or nonregistered automobile upon any open space on any automotive service station site, provided that no more than three inoperable or nonregistered vehicles may be stored on such premises at any one time, whereas, no wrecked vehicle(s) may be stored on such premises for a period in excess 30 calendar days.

(11) *Scrap metal dealer* means a person engaged in the business of buying or selling metal articles, ferrous and nonferrous scrap metal, and proprietary articles.

(Code 1982, § 12.10(2))

Sec. 9-73. License application and fee.

(1) Application for any scrap metal dealer license or motor vehicle salvage dealer license shall be made to the City Clerk on a form to be furnished by the City Clerk, and shall contain the information prescribed by subsection (2) below. In addition, notwithstanding Sec. 9-02 (1) (b), a nonrefundable annual license fee of \$50.00 plus a nonrefundable investigation fee shall accompany such application. Licenses, when issued, shall be posted in a conspicuous place on the premises so licensed at all times. The license shall expire as of midnight, December 31 of each calendar year.

(2) Application; investigation; inspection. Every applicant for a license to engage in the scrap metal business or motor vehicle salvage business shall file with the City Clerk a written application, signed by the applicant, which shall state the name and residence of the applicant or officers of the applicant, length of residency, place of previous employment, cities of residence for the past 5 years, whether applicant has or officers of applicant have been convicted of a felony or misdemeanor, and if so, what offense, whether applicant has or officers of applicant have previously been engaged in the business for which the license is sought, the nature of the business to be conducted and the kind of materials to be accumulated, collected, traded, bought, sold, stored, or otherwise handled and a complete legal description where such business is to be located or carried on or where the collected articles are to be stored. The chief of police, or his designee, shall investigate the record of each applicant, and the building inspector or his designee shall inspect and search the premises described in such application, and each shall report his findings and submit his recommendation to the Judiciary, License and Cemetery committee. Any business, whose primary or ancillary use is as a metal recycling collector or light metal materials dealer, is exempt from the licensing requirements of this chapter. Any business, whose primary or ancillary use is as a scrap metal or motor vehicle salvage dealer, shall be located only on premises properly zoned for such use, according to the requirements of the zoning ordinances of the city. If a scrap metal or motor vehicle salvage dealer business is in operation prior to the enactment of this ordinance, they may be able to obtain a license under the provisions of this chapter regardless of the zoning district classification of the business.

(3) Granting; issuance. Once a complete application along with the required fees have been submitted to the City Clerk, a scrap metal dealer's license or motor vehicle salvage dealer's license shall be granted only after the Judiciary, License and Cemetery committee has recommended and the Common Council has approved such license. No applicant to whom a license has been refused shall directly or indirectly reapply until one year shall have elapsed since the last previous rejection. All licenses shall be numbered, and shall set forth the licensee's name and address, type of business, and legal description of premises for which it was issued.

(4) License renewal. A renewal application for any scrap metal dealer license or motor vehicle salvage dealer license shall be made to the City Clerk on a form to be furnished by the City Clerk, and shall contain the information prescribed by subsection (2) above. All renewal applications for a scrap metal or motor vehicle salvage license shall be filed on or before November 1 of each year prior to the license year. In addition, a non refundable annual license fee of \$50.00, plus a

nonrefundable investigation fee for a background investigation shall accompany such application. License renewals shall be granted only after the Judiciary, License and Cemetery committee has recommended and the Common Council has approved such license. Renewed licenses, when issued, shall be posted in a conspicuous place on the premises so licensed at all times. The license shall expire as of midnight, December 31 of each calendar year.

(5) License denial, revocation, or suspension. An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two offenses. Because a license is a privilege, the issuance of which is a right granted solely by the council, the council reserves the right to consider the severity and facts and circumstances of the offense when making the determination to grant, suspend, deny, or renew a license. License denial, revocation, or suspension shall be governed by Sec. 9-02 (15).

(6) Consideration for the granting, suspension, or denial of a license will be based on:

- a. Arrest and conviction record of the applicant, subject to the limitation imposed by Secs. 111.321, 111.322, 111.335 Wis. Stats.;
- b. Whether the licensee has been convicted of or committed offenses substantially related to the licensed activity, pursuant to section 9-71.
- c. Compliance with Chapter 18 of the Municipal Code.
- d. Compliance with the Conditional Use Permit issued for the purpose of allowing operations identified in Sec. 9-71.
- e. Failure to obtain a state license prior to operation.

(Code 1982, § 12.10(3))

Sec. 9-74. Records; certain sales restricted.

The licensee shall keep records and certain sales are restricted in accordance with the following:

- (1) *Records.* The licensee shall keep records of purchases, dates and times thereof, and the names and addresses of the persons from whom purchased. Such records shall be open to inspection by the chief of police or any city police officer.
- (2) *Purchase from minors.* No licensee shall purchase any merchandise of any kind from a person under 18 years of age.
- (3) *Reports.* Licensee reporting requirements are as follows:

a. Every such licensee shall report all Vehicle Identification Numbers (VIN) listed on any article purchased, to the City of Marshfield police department by phone or by email within 24 hours of the business day of which the article was originally purchased.

b. Every such licensee who comes into possession of stolen merchandise, or merchandise which is advertised or alleged or supposed, by law enforcement, to have been stolen, or merchandise which answers the description of such merchandise, shall immediately report such information to the police department, together with the name of the person from whom purchased or obtained, and shall, on demand by any officer, exhibit such merchandise to him or them. Said merchandise shall not be sold, scrapped, transferred, or disposed of in any way without the authorization of the Chief of Police or his designee.

(4) *Waiting period.* No such licensee shall expose for sale, sell or dispose of any articles with a Vehicle Identification Number (VIN) until one full business day has passed from the time of reporting the VIN of the article(s) to the police department, unless otherwise given approval by the Chief of Police or his designee.

(5) *Hours limited.* Scrap metal and moter vehicle salvage dealer businesses may only be open to the public from 7:00 a.m. to 7:00 p.m. Monday through Saturday.

(Code 1982, § 12.10(4))

Sec. 9-75. Penalties

Penalties for violations of this article shall be as follows:

(1) Any person who shall violate any provision of this article, or who shall conduct any activity for which a license is required without holding such a license, shall be subject to a forfeiture as provided in section 1-05 of this Code of the City of Marshfield.

(2) Nothing in this section shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes.

Secs. 9-76—9-90. Reserved.

Article V. Mobile Homes and Mobile Home Parks

Sec. 9-91. State statutes adopted.

The provisions of § 66.0435 Wis. Stats. and the definitions therein are hereby adopted by reference and made a part of this chapter as if fully set forth in this article.

(Code 1982, § 12.11(1))

Sec. 9-92. License required.

No person shall maintain or operate, within the limits of the city, any mobile home park unless such person shall first obtain a license therefor.

(Code 1982, § 12.11(2))

Sec. 9-93. License fees.

License fees shall be as follows:

(1) *Mobile home park licenses.* The license fees for each mobile home park shall be \$25.00 per year for each 50 spaces or fraction thereof.

(2) *License transfers.* The fee for each transfer of a license, from owner to owner, or from mobile home park to mobile home park, shall be \$10.00.

(3) *Monthly fee.* There is hereby imposed on each owner of a nonexempt mobile home in the city a monthly parking permit fee determined in accordance with § 66.0435(3) Wis. Stats. It shall be the full and complete responsibility of the licensee to collect the proper amount from each mobile home owner, but such licensee may retain, for administrative expenses, two percent of the monthly fees collected. Licensees and owners of mobile homes permitted to be located on land outside a mobile home park shall pay to the finance director such parking permit fees on or before the tenth day of the month following the month for which such fees are due in accordance with the terms of this article and such regulations as the finance director may reasonably promulgate.

(4) *Notification of units added.* Licensees of mobile home parks and owners of land on which are parked any occupied, nonexempt mobile homes shall furnish information to the city clerk and city assessor on such homes added to their park or land within five days after arrival of such home on forms furnished by the clerk.

(5) *Renewal of license.* Upon application by any licensee, and after approval by the council and upon payment of the annual license fee, the city clerk shall issue a certificate renewing the license for another year, unless sooner revoked. Such application shall be in writing, signed by the applicant, on forms furnished by the city.

(Code 1982, § 12.11(3))

Sec. 9-94. Application for license.

The application for the license shall contain the following, and an inspection and investigation shall be made as follows:

(1) *Information required.* Application for a mobile home park license shall be filed with the city clerk. The application shall be in writing signed by the applicant and shall contain the following:

- (a) The name and address of the applicant.
- (b) The location and legal description of the mobile home park.
- (c) A complete plan of the park showing the locations of all roads, lots, utilities and common areas of the park.
- (d) Plans and specifications of all buildings and other structures constructed or to be constructed within the mobile home park.
- (e) Such further information as may be requested by the judiciary, license and cemetery committee to enable it to determine if the proposed park will comply with legal requirements.

(2) *Inspection and investigation.* The application and all accompanying plans and specifications shall be filed in triplicate with the building services supervisor. The board of public works, the chief of police and the building services supervisor shall investigate the applicant and inspect the proposed plans and specifications. If the applicant is found to be of good moral character, and the proposed mobile home park will be in compliance with all provisions of this article and with ATCP 125Wis. Admin. Code and § 66.0435 Wis. Stats., the council shall approve the application and, upon completion of the park according to the plans, the city clerk shall issue the license.

(3) *Transfer applications.* Upon application for a transfer of the license, the council shall approve a transfer if the license committee and the chief of police shall report that the transferee is of good moral character.

(Code 1982, § 12.11(4))

Sec. 9-95. Penalty.

Any violation of this article shall be subject to a penalty as set forth in section 1-05 of this Code.

(Code 1982, § 12.11(5))