

TITLE XI: BUSINESS REGULATIONS

Chapter

110. LICENSES AND PERMITS

111. CABLE TELEVISION

Licenses and Permits
CHAPTER 110: LICENSES AND PERMITS

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GENERAL PROVISIONS

§ 110.01 LICENSES REQUIRED.

(A) A license shall be required for the sale of each of the following or the conduct of the business or activity at the indicated license fee. The license fees shall be for 1 year unless otherwise indicated.

(B) (1) *Building permit.* See Ch. 150 of this code.

(2) *Cigarette licenses.* Fees shall be established by the Council by resolution, and reviewed from time to time as necessary.

(3) *Dances.* \$12 for each inspector.

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(4) *Dogs.* See Section 90.03 of this code.

(Am. Ord. 731, passed 7-1-2008; Am. Ord. 752A, passed 12-6-2011)

(5) *Fermented malt beverages.* Fees shall be established by the Council by resolution, and reviewed from time to time as necessary.

(b) Class B fermented malt beverage retailer's license. \$100 per year.

(6) *Intoxicating liquors.* Fees shall be established by the Council by resolution, and reviewed from time to time as necessary.

(7) *Junk and salvage dealers.* \$10.

(8) *Mobile homes.* According to assessed value pursuant to Wis. Stats. § 66.0435.

(9) *Mobile home parks.*

(a) Per space. \$2, but not less than \$25 nor more than \$100.

(b) Transfer fee. \$10.

(10) *Peddlers, canvassers, solicitors and transient merchants.* \$50 investigation fee.

(11) *Pinball and music machines.* \$10 per machine.

(12) *Public amusements and entertainments.* \$10 per day or \$15 per month for continuing amusements or entertainments.

(13) *Temporary Licenses.*

(a) Temporary Class "B" fermented malt beverage license. \$10 per event.

(b) Temporary Class "B" wine license. \$10 per event except if an organization is applying for both a temporary Class "B" beer licenses and a temporary Class "B" wine license for the same event, the maximum fee is still \$10.

(c) Temporary operator's license. \$10 per event.

(1989 Code, § 12.01) (Am. Ord. 670, passed 1-4-2005; Am. Ord. 753, passed 1-4-2012; Am. Ord. 792, passed - -2019)

Cross-reference:

Additional license fees, see § 110.15, divisions (C)(8) and (9) and division (P)

Licenses and Permits
§ 110.02 ISSUANCE AND REVOCATION OF LICENSES.

(A) *License required.* No person shall engage in any business or activity enumerated in § 110.01 without a license or permit therefor as provided by this section. The words **LICENSE** and **PERMIT** as used throughout this chapter shall be considered interchangeable.

(B) *Application.* Application for a license under this chapter shall be made to the City Clerk-Treasurer on a form furnished by the city. The application shall contain any information as may be required by the provisions of this chapter or as may be otherwise required by the Council.

(C) *Payment of license fee.* License fees imposed under § 110.01 shall accompany the license application. If a license is granted, the City Clerk-Treasurer shall issue the applicant a receipt for his or her license fee.

(D) *Refund of license fee.* No fee paid shall be refunded unless the license is denied.

(E) *Granting of licenses.*

(1) The City Clerk-Treasurer may issue the following licenses subject to the standards established by this chapter without prior approval of the Council:

- (a) Pinball and music machines;
- (b) Public amusements and entertainments; and
- (c) Dog licenses.

(2) All other licenses shall be issued by the Council unless otherwise designated.

(F) *Terms of licenses.* All licenses issued hereunder shall expire on June 30 in the year of issuance unless issued for a shorter term, when they shall expire on midnight of the last effective day of the license, or unless otherwise provided by these ordinances or state laws.

(G) *Form of license.* All licenses issued hereunder shall show the date of issue, the activity licensed, and the term of the license, and shall be signed by the Mayor and City Clerk-Treasurer and be impressed with the City Seal.

(H) *Record of licenses.* The City Clerk-Treasurer shall keep a record of all licenses issued.

(I) *Display of licenses.* All licenses hereunder 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.

(J) *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 revocation of the license.

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(K) Transfer of licenses. All licenses issued hereunder shall be personal to whom issued and shall not be transferred except with the consent of the Council.

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

(M) Renewal of licenses. All applications for renewal of licenses hereunder shall be made to the City Clerk-Treasurer by April 15.

(N) 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 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.

(O) Revocation of licenses. Except as provided in § 110.15(J), any license issued under this chapter may be revoked for cause by the Mayor or Common Council. Any licensee whose license is so revoked may apply within 10 days of the revocation for a public hearing before the Common Council. At the hearing the licensee shall be entitled to be represented by counsel. After hearing the evidence, the Council may confirm or reverse the revocation or modify the revocation by imposing a limited period of suspension. The determination of the Council shall be final. The Police Department shall repossess any license revoked hereunder.

(1989 Code, § 12.02)

§ 110.03 POINT VALUES FOR ALCOHOLIC BEVERAGE VIOLATIONS.

(A) Purpose. The purpose of this section is to establish an alcoholic beverage demerit point system to assist in determining which license holders should be subject to revocation, suspension or nonrenewal procedures.

(B) Point schedule. The scale of demerit points as set forth in Appendix A to this chapter is listed according to the type of alcoholic beverage violation. This demerit point system is used to identify habitually troublesome license holders who have repeatedly violated state statutes and city ordinances, for the purpose of recommending revocation, suspension or nonrenewal of their alcoholic beverage licenses.

(C) Violations, how calculated. In determining the accumulated demerit points against a license within 12 months, the city shall use the date each violation was committed as the basis for the determination.

(D) Suspension or revocation of license.

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(1) The Police and License Committee shall call before it for purposes of a revocation, suspension or nonrenewal hearing all licensees who have accumulated 100 points in a 12-month period as a result of court-imposed convictions or who have had referred to it reports from the Police Department which, if believed, would result in 100 demerit points in 12 months.

(2) If the demerit point accumulation, calculated from the date of violation, meets or exceeds 100 points in a 12-month period, 150 points in a 24-month period or 200 points in a 36-month period, the suspension shall be for not less than 3 days nor more than 90 days. If the license(s) is revoked or not renewed, no other license shall be granted to the licensee or for the premises for a period of 12 months from the date of revocation.

(3) The procedure to be used for revocation, suspension or nonrenewal shall be that found in Wis. Stats. § 125.12.

(Ord. 471, passed 1-2-1990)

BUSINESSES AND ACTIVITIES

§ 110.15 INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES.

(A) *State statutes adopted.* The provisions of Wis. Stats. Ch. 125, defining and regulating the sale, procurement, dispensing and transfer of beverages, including provisions relating to the penalty to be imposed or the punishment for violation of those statutes, are adopted and made a part of this section by reference. A violation of any of those provisions shall constitute a violation of this section.

(B) *Licenses, permits, authorization required.*

(1) *When required.* No person, except as provided by Wis. Stats. § 125.06 shall, within the city, serve, sell, manufacture, rectify, brew or engage in any other activity for which this chapter or Wis. Stats. Ch. 125, requires a license, permit or other authorization without holding the appropriate license, permit or other authorization as provided in this chapter. See Wis. Stats. § 125.04(1).

(2) *Separate license required for each place of sale.* Except for licensed public warehouses, a license shall be required for each location or premises which is in direct connection or communication to each other where alcohol beverages are stored, sold or offered for sale. See Wis. Stats. § 125.04(9).

(C) *Classes of licenses and fees.* The following classes and denominations of licenses may be issued by the City Clerk-Treasurer under the authority of the Common Council after payment of the fee herein specified, which when so issued shall permit the holder to sell, deal or traffic in alcohol beverages as provided in Wis. Stats. §§ 125.51 *et seq.* Except as otherwise provided in this section, the full license fee shall be charged for the whole or fraction of any year.

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(1) *Class A fermented malt beverage retailer's license.* See Wis. Stats. § 125.25 and § 110.01(B)(5).

(2) *Class B fermented malt beverage retailer's license.* See Wis. Stats. § 125.26 and

§ 110.01(B)(5). A license may be issued at any time for 6 months in any calendar year, for which 3/4 of the applicable license fee shall be paid, but the license shall not be renewable during the calendar year in which issued.

(3) *Wholesaler's fermented malt beverage license.* See Wis. Stats. § 125.28 and

§ 110.01(B)(5).

(4) *Retail Class A liquor license.* See Wis. Stats. § 125.51(2) and § 110.01(B)(6).

(5) *Retail Class B liquor license.* Wine may be sold in original packages or otherwise in any quantity to be consumed off the premises. See Wis. Stats. § 125.51(3) and § 110.01(B)(6).

(a) A license may be issued after July 1 in any license year which shall expire on the following June 30. The fee for the license shall be prorated according to the number of months or fractions thereof remaining until the following June 30.

(b) Licenses valid for 6 months may be issued at any time. The fee for the license shall be 50% of the annual license fee. The license may not be renewed during the calendar year in which issued.

(6) *Pharmacist's license.* See Wis. Stats. § 125.61 and § 110.01(B)(6).

(7) *Operator's license.* See Wis. Stats. §§ 125.51 *et seq.* and § 110.01(B)(5) and (B)(6).

(a) Operator's licenses may be granted to individuals by the Common Council for the purposes of complying with Wis. Stats. §§ 125.32(2) and 125.68(2).

(b) Operator's licenses may be issued only on written application on forms provided by the Clerk-Treasurer.

(c) Operator's licenses shall be valid for 1 year and shall expire on June 30 of each year.

(8) Provisional operator's license.

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(a) Fee is \$10.00 for 60 days, pursuant to Wis. Stats. §§ 125.51 *et seq.*
(Ord. 495, passed 10-6-1992)

(b) The provisional operator's license shall be approved by the Police Chief of the City Police Department.
(Am. Ord. 621, passed 8-1-2000)

(9) *Class C wine license.* Fees shall be established by the Council by resolution, and reviewed from time to time as necessary.

(10) *Temporary Class "B" fermented malt beverage license.* See Wis. Stats. § 125.26(6) and § 110.01(B)(13)(a).

(11) *Temporary "Class B" wine license.* See Wis. Stats. § 125.51(10) and § 110.01(B)(13)(b).

(12) *Temporary operator's license.* See Wis. Stats. § 125.17(4) and § 110.01(B)(13)(c).

(Ord. 494, passed 10-6-1992, Am. Ord. 753, passed 1-4-2012, Am. Ord. 792 , passed - - 2019)

(D) License application.

(1) *Form.* Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on forms prescribed by the Wisconsin Department of Revenue, or governing body for operators' licenses, and filed with the Clerk-Treasurer. The premises shall be physically described, including every room and storage space to be covered by the license and including all rooms joined by connecting entrances or not separated by a solid wall.

(2) *Application to be notarized.* The application shall be signed and sworn to by the applicant as provided by Wis. Stats. § 887.01.

(3) *Duplicate.* Upon approval, a duplicate copy of each application shall be forwarded by the City Clerk-Treasurer to the State Department of Revenue.

(E) License restrictions.

(1) *Statutory requirements.* Licenses shall be issued only to persons eligible therefor under Wis. Stats. § 125.04.

(2) Location.

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(a) 1. No retail Class A 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.

2 No retail 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 or hospital.

3. The distance shall be measured by the shortest route along the highway from the closest point of the main entrance to the premises covered by the license.
(Am. Ord. 502, passed 3-2-1993)

(b) This division 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, hospital or church building.

(3) *Violators of liquor or beer laws or ordinances.* No retail Class A or B license shall be issued to any person who has been convicted of a violation of any federal or state liquor or fermented malt beverage law or the provisions of this section during 1 year prior to the application. A conviction of a member of a partnership or the partnership itself shall make the partnership or any member thereof ineligible for the license for 1 year.

(4) *Health and sanitation requirements.* No retail **Class B license shall be issued for any premises which does not conform to the sanitary**, safety and health requirements of the State Department of Industry, Labor and Human Relations pertaining to buildings and plumbing, to the rules and regulations of the State Department of Health and Social Services applicable to restaurants and to all such ordinances and regulations adopted by the Common Council.

(5) *License quota.* **The number of persons and places that may be granted a retail Class B liquor license under this section is limited as provided in Wis. Stats. § 125.51(4).**

(6) *Corporations.* No corporation organized under the laws of this State or of any other state or foreign country may be issued any alcohol beverage license or permit unless the corporation meets the requirements of Wis. Stats. § 125.04(6).

(7) *Age requirement.* No license hereunder shall be granted to any person under the legal drinking age. Operator's licenses may be issued only to applicants who have attained the age of 18.

(Am. Ord. 409, passed - -)

(8) *Effect of revocation of license.* Whenever any license has been revoked, at least 12 months from the time of the revocation shall elapse before another license shall be granted to the person whose license was revoked.

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(9) *Delinquent taxes, assessments and claims.* No license shall be granted for any premises for which taxes, assessments or other claims of the city are delinquent and unpaid, or to any person delinquent in payment of such claims to the city.

(10) *Issuance for sales in dwellings prohibited.* No license shall be issued to any person for the purpose of possessing, selling or offering for sale any alcohol beverages in any dwelling house, flat or residential apartment.

(F) *Form and expiration of licenses.* 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 and, unless sooner revoked, shall expire on June 30 thereafter except as otherwise provided. The City Clerk-Treasurer shall affix his or her affidavit as required by Wis. Stats. § 125.04(4).

(G) Transfer of licenses.

(1) *As to person.* No license shall be transferable as to licensee except as provided by Wis. Stats. § 125.04(12).

(2) *As to place.* Licenses issued pursuant to this section may be transferred as provided in Wis. Stats. § 125.04(12). Application for such transfer shall be made on blanks furnished by the State Department of Revenue. Proceedings for transfer shall be had in the same manner and form as the original application.

(H) *Posting and care of licenses.* Every license or permit required under this section shall be framed and posted and at all times displayed as provided in Wis. Stats. § 125.04(10). No person shall post the license or permit any other person to post it upon premises other than those mentioned in the application, or knowingly deface or destroy the license.

(I) *Regulation of licensed premises and licensees.*

(1) *Illegal Gambling and disorderly conduct prohibited.* Each licensed and permitted premises shall at all times be conducted in an orderly manner; and no disorderly, riotous or indecent conduct or illegal gambling shall be allowed at any time on any such premises. For purposes of this section, the use of coin-operated games and amusement devices shall not be deemed to be illegal gambling.

(Am. Ord. 793, passed 4-8-2019)

(2) *Employment of underage person.* No licensee shall employ any underage person who does not have a valid operator's license to serve, sell, dispense or give away any alcohol beverage.

(Am. Ord. 409, passed - -)

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(3) *Sales by clubs.* No club shall sell intoxicating liquors or fermented malt beverages except to members and guests invited by members.

(4) *Safety and sanitation requirements.* Each licensed premises shall be maintained and conducted in a sanitary manner and shall be a safe and proper place for the purpose for which used.

(5) *Commencement of Operations.* Within 60 days after the issuance of a “Class B” intoxicating liquor license or a Class “B” fermented malt beverage license, the licensee shall be open for business with adequate stock and equipment. Upon a licensee’s failure to do business within such time, the licensee’s license shall be subject to revocation by the Common Council, subject to procedures established by Section 125.12, Wis. Stats. The Common Council may, for a good cause shown, extend such 60 day period.

(6) *Cessation of Operations.* If any licensee shall suspend or cease doing business for 60 consecutive days or more, the licensee’s “Class B” intoxicating liquor license or Class “B” fermented malt beverage license shall be subject to revocation, suspension, or nonrenewal by the Common Council, subject to procedures established by Section 125.12, Wis. Stats. The Common Council may, for a good cause shown, extend such 60 day period.

(Am. Ord. 789, passed 2-12-2018)

(J) *Closing hours.* No premises for which an alcohol beverage license has been issued shall remain open for the sale of alcohol beverages:

(1) If a wholesale license, between 5:00 p.m. and 8:00 a.m., except on Saturday when the closing hour shall be 9:00 p.m.

(2) If a retail Class A license, between 12:00 a.m. midnight and 8:00 a.m.

(3) If a retail Class A license, between 9:00 p.m. and 8:00 a.m.

(4) If a retail Class B license, between 2:00 a.m. and 6:00 a.m. on weekdays and between 2:30

a.m. and 6:00 a.m. on Saturdays and Sundays. On January 1, premises operating under a Class B license are not required to close. No package, container or bottle sales may be made after midnight.

(5) Hotels and restaurants, whose principal business is the furnishing of food or lodging to patrons, bowling alleys and golf courses, may remain open for the conduct of their regular business, but no intoxicating liquors or fermented malt beverages shall be sold during prohibited hours.

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(6) Any person or establishment who violates this provision of the municipal code as it pertains to closing hours shall be penalized as set forth in § 110.99.

(Ord. 519, passed 4-6-1994)

(K) Revocation and suspension of licenses.

(1) *Procedure.* Whenever the holder of any license under this section violates any portion of this section, proceedings for the revocation or suspension of the license may be instituted in the manner and under the procedure established by Wis. Stats. § 125.12, and the provisions therein relating to granting a new license shall likewise be applicable.

(2) *Suspension of licenses.* The Mayor or Chief of Police, upon obtaining reasonable information that any licensee has violated any provision of this section or any state or federal liquor or fermented beverage law, or committed any felony, may suspend the license or permit of the person not to exceed 10 days pending hearing by the Council, pursuant to division (K)(1) of this section.

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

(4) *Effect of revocation.* See division (E)(8) of this section.

(L) Nonrenewal of licenses. Before renewal of any license issued under this section is refused, the licensee shall be given written notice of any charges or violations or the reasons proposed for nonrenewal and a copy of any proposed motion for nonrenewal, and shall have an opportunity to be heard before the Common Council.

(M) Violations by agents and employees. A violation of this section by an authorized agent or employee of a licensee shall constitute a violation by the licensee.

(N) Prohibition of sale or consumption of fermented malt beverages and intoxicating liquor.

(1) No person shall sell or serve, or offer to sell or serve, any fermented malt beverages or intoxicating liquor upon any public street within the city.

(2) No person shall consume any fermented malt beverages or intoxicating liquor upon any public street within the city except when the street or portion thereof is included within an area for which the Common Council has granted, under Wis. Stats. § 125.32, a temporary malt beverage license.

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(3) No owner, operator or any person employed in any place, other than a public park, where food or soft drinks are sold or any place of entertainment or amusement, shall permit any person to drink a fermented malt beverage therein or consume therein any fermented malt beverages.

(4) No person shall drink or have in his or her possession any fermented malt beverage in any city park after the hours set by Park Board rules.

(5) Each holder of an intoxicating liquor or fermented malt beverage license granted by the city shall:

(a) Keep prominently displayed in the licensed premises, at all times, a notice to customers that no consumption of fermented malt beverages or intoxicating liquors is allowed upon any public street within the city; and

(b) Be held personally responsible to ensure that no customer exits the licensed establishment consuming any fermented malt beverages or intoxicating liquor upon entry to the street within the city.

(0) *Manager's license.* No person shall manage a premises operating under Class B license issued under this chapter unless the person is the licensee or has a manager's license.

(1) A person manages a premises if he or she is responsible or has authority for:

(a) Personnel management of all employees regardless of whether that person is authorized to sign employment contracts;

(b) The terms of contracts for the purchase or sale of goods or services regardless whether the person is authorized to sign contracts for the goods or services; and

(c) The daily operation of the premises.

(2) Upon the proper application of an individual over the legal drinking age and a resident of the state for a manager's license, the Common Council may, in its discretion, issue the license for a period of 1 year. A person holding a manager's license shall also be considered to hold an operator's license.

(1989 Code, § 12.05) (Ord. 353, passed - -; Am. Ord. 409, passed - -)

(P) Alcoholic beverages in outside areas.

(1) Permission required. No holder of a Class B and/or Class C license may operate under those license(s) in any outdoor area, whether or not the outdoor area was included in a description of the licensed premises prior to the effective date of this division (P), without first having obtained the permission of the Common Council therefor in accordance with

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the terms and conditions of this division. Any Class B and/or Class C license holder whose license contained an outdoor area within the description of the licensed premises on the effective date of this division shall have 90 days after the effective date of this division (P) in which to obtain permission hereunder as a prerequisite to the continued utilization of the outdoor area. However, should this permission be applied for and denied during the 90-day period of time, the utilization of the outdoor area as part of the licensed premises shall, upon denial, cease forthwith.

- (a) The granting of permission hereunder shall result in the outdoor area becoming a part of the description of the licensed premises for purposes of Wis. Stats. § 125.04(3)(a)(3.), with the outdoor area also being subject to state and city laws, rules, regulations, and lawful orders governing Class B and/or Class C licensed premises, except as otherwise provided herein.
- (b) Permission to operate under a Class B and/or Class C license in an outdoor area pursuant to this division is a privilege and does not vest a property right; therefore, permission may be revoked by the Common Council pursuant to division (P)(7)(d) below.

(2) Definitions.

OUTDOOR AREA. An area, whether or not enclosed by a roof, which is open to the elements, and which is not constructed for year-round use.

OUTDOOR THEATER. An outdoor area, consisting of a stage, seating, and associated structures, for the presentation of plays or other dramatic performances.

RESTAURANT. Any building or room and, if applicable, an outdoor area, properly licensed by the Wisconsin Department of Health and Family Services, pursuant to Wis. Adm. Code § HFS 196.03(5), where, as the establishment's primary business, food is prepared, served and sold to transients or the general public, and where the sale of alcohol beverages accounts for less than 50% of the establishment's gross receipts.

(3) Application.

- (a) *Content.* Application for an outdoor area permit shall be made to the City Clerk-Treasurer on forms furnished by the City Clerk-Treasurer. The application shall include:

1. The name, address and phone number of the applicant(s);
2. A map describing the proposed outdoor area, including proposed capacity and the proposed location of seating, and proposed physical enclosure; and showing the location of family residences, or tourist/guest lodging, within 40 feet of the proposed outdoor area;

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3. A lighting and signage plan; and

4. Written verification from the Wisconsin Department of Health and Family Services that the premises, including the outdoor area, is properly licensed as a restaurant by that Department. This provision shall not apply to holders of a Class B and/or a Class C license, with regard to operation under said license in an outdoor theater.

(b) *Review and approval.* The City Clerk-Treasurer shall send the application to appropriate city departments for review and written comment. Written comments shall be submitted to the Police and License Committee. This committee shall make recommendations regarding the application to the Common Council. The Common Council shall approve or deny applications. Applicants whose applications are

approved shall agree to abide by the terms and conditions of this section, including restrictions and penalties.

(c) *Term.* The permit term shall be from July 1 through June 30.

(d) *Renewal application.* The applicant shall, on an annual basis, file a renewal application with the City Clerk-Treasurer prior to the term expiration.

(4) *Restrictions governing the use of the outdoor area.*

(a) No outdoor area may lie within any residentially zoned area of the city.

(b) There shall be no amplified music or sound.

(c) Any lighting of the outdoor area must be shielded and be directed in such a manner as to prevent any encroachment upon other properties.

(d) There shall be strict compliance with all Wis. Adm. Code provisions related to noise control and abatement.

(e) Outdoor dining areas must be physically adjacent to the indoor licensed premises.

(f) Exits may not be blocked or impeded by dining furniture or diners.

(g) No entrance to the outside area shall be permitted except through the indoor licensed premises.

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(h) Signs shall be placed in the outdoor area indicating that alcoholic beverages are not permitted beyond the outdoor area.

(i) Any outdoor area for which a permit is obtained under this section shall be closed for business during the hours of 10:30 p.m. to 10:00 a.m.

(Am. Ord. 796, passed 8-12-2019)

(j) Capacity of the outdoor area, including outdoor seating, shall be determined by the City Fire Chief.

(k) The restrictions under subsections (b), (e), (f), and (h) shall not apply to holders of a Class **B** and/or a Class C license, with regard to operation under said license in an outdoor theater.

(5) *Fee.* At the time of initial application for permission hereunder, the applicant shall pay to the City Clerk-Treasurer a 1-time processing fee of \$50. In addition, there shall be an annual permit fee of \$50 for the permit term including the initial term.

(6) *Scope of use.* The Common Council, following review and recommendation by the Police and License Committee, may limit the scope of the use of the outdoor area, either in the process of the original approval or after the initial approval of the application. The limitation imposed may provide for a limitation on the activities permissible within the outdoor area during part or all of the time during which the outdoor area is permitted to be or remain open.

(7) *Violations.* Violations of this division (**P**) shall subject the permit holder to any combination of the following:

(a) Penalties for violating any provision in conformity with Wisconsin Statutes shall be the same as provided for by the statutes.

(b) Persons violating any provision of this division shall be subject to the provisions of § 110.99.

(c) Limitation in the scope of use pursuant to division (P)(6) above.

(d) Upon notice and after hearing before the Police and License Committee, the Common Council may revoke the outdoor area permit granted herein.

(8) *Enforcement.* The enforcement of this section shall be under the jurisdiction of the City Police Department, who shall have the power to inspect outdoor areas to determine compliance with this section.

(Ord. 678, passed 6-7-2005; Am. Ord. 691, passed 2-6-2006; Am. Ord. 710, passed 6-5-2007; Am. Ord. 755, passed 8-7-2012) Penalty, see § 110.99

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§ 110.16 NUDE DANCING AND ACTIVITIES ON PREMISES PROHIBITED.

(A) It shall be unlawful for a person to dance or engage in other activities on the premises of any establishment licensed to sell intoxicating beverages if the person dances or engages in other activities in such a manner or utilizing such attire as to expose to view any portion of the pubic area, anus, vulva or genitals, or that portion of a woman's breast referred to as the areola or nipple, or any simulation of any such part of the body.

(B) The proprietor or owner of a premises licensed to sell intoxicating beverages for consumption on the premises, who knowingly permits the nude or nearly nude activity prescribed by division (A) of this section on the premises, shall have his or her fermented malt beverage or intoxicating liquor license for the premises revoked for not less than 6 months nor more than 1 year and shall be subject to a forfeiture as provided by law. Each performance, appearance or activity in violation of division (A) of this section shall be a separate offense.

(C) Any person who performs nude or nearly nude dancing in violation of division (A) shall be subject to a forfeiture as provided by law.

(Ord. 479, passed 5-7-1991) Penalty, see § 110.99

§ 110.17 JUNK AND SALVAGE DEALERS.

(A) *License required.* No person shall engage in the business of junk or salvage dealer without a license therefor as required by this section.

(B) *Defined.* A **JUNK OR SALVAGE DEALER** is a person who engages in the city in the business of buying, selling or collecting any article of personality which, from its worn condition, renders it practically useless for the purpose for which it was made, and which is customarily defined as "junk." This definition shall include persons involved in wrecking or dismantling motor vehicles and those who deal in junked motor vehicles or parts thereof.

(C) *Residence required.* No person shall be granted a license hereunder who has not been a resident of or been in business in the city for at least 2 years prior to making application. If the applicant is an association, partnership or corporation, all officers and directors shall comply with this residence requirement.

(D) *Application.* Application for a license under this section shall be made upon an application form provided by the city which shall provide the following information:

- (1) Name and address of all applicants and officers and directors;
- (2) Length of residence in the city;

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- (3) Whether the applicant or any officer or director of the applicant has been convicted of a felony or misdemeanor and the nature thereof and where the judgment of conviction was entered;
- (4) Previous experience as a junk or salvage dealer; and
- (5) Nature and location of the business to be conducted.

(E) Application to be verified. The application shall be sworn to by the applicant.

(F) License investigation.

(1) The City Clerk-Treasurer shall refer any application hereunder to the Chief of Police, the Fire Chief, the Building Inspector and the Public Property and Health Committee who shall cause to be inspected the applicant and the proposed premises. No application shall be issued hereunder unless the building or buildings proposed to be used in connection with the business are of fireproof construction.

(2) The officers shall report the results of their investigation to the Common Council, which shall review the reports before acting upon the application.

(G) Premises not to be located in residence districts. No license shall be granted hereunder for any premises if located within 2,000 feet of 3 or more residential dwellings.

(H) Renewal of application. If an application for a license hereunder is rejected, no further application shall be entertained for 6 months unless the applicant can show that the reasons for the rejection have been corrected.

(I) Posting license required. Any person to whom a license has been issued hereunder shall post the license in a conspicuous place on the licensed premises.

(J) License fee. See §110.01(B)(7). (1989 Code, § 12.06)

§ 110.18 MOBILE HOMES AND MOBILE HOME PARKS.

(A) State statutes adopted by reference. The provisions of Wis. Stats. § 66.0435 and the definitions therein are hereby adopted by reference.

(B) Mobile homes outside licensed parks.

(1) (a) The Common Council may issue special written permits allowing the location of a mobile home outside a mobile home park.

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- (b) The person to whom the permit is granted shall be subject to the parking permit fee as provided in division (E) of this section. The permit shall be granted only upon the written consent of the owner, legal agent of the owner or the lessee of the location for which the permit is issued. Not more than 2 mobile homes shall be granted permits to locate on any 1 premises outside a mobile home park.
- (2) Application for the permit shall be made to the City Clerk-Treasurer and shall be accompanied by an inspection fee as set forth in § 110.01(B)(9), and shall state the name and permanent addresses of the occupants of the mobile home, the license number of their mobile home and towing vehicle, place of last stay, intended purpose of stay at requested location, whether the occupants are nonresident tourists, whether any occupant is employed
- in this state; the exact location of the premises, the name of the owner and the occupant of any dwelling on the premises, and the owner's and/or occupant's permission to locate; a statement of the nature and location of sanitary facilities and the permission of the occupant of the dwelling house for their use; and a statement that all wastes from mobile home occupancy will be disposed of in a sanitary manner.
- Application for location on a vacant lot or parcel of land**
- lot or parcel of land shall be accompanied by a statement of the nature and location of sanitary facilities, which must include a safe water supply and toilet within 200 feet of the proposed location of the mobile home; and a statement of permission from the owner for their use.
- (3) All occupants of any mobile home located outside of a mobile home park shall register with the City Clerk-Treasurer.

(C) Park license required. No person shall establish or operate, upon property owned or controlled by him or her within the city, a mobile home park without having first secured a license therefor from the City Clerk-Treasurer. The application for each license shall be accompanied by a fee for each space in the existing or proposed park, as set forth in § 110.01(B)(9), but not less than \$25 nor more than \$100. The license shall expire 1 year from the date of issuance. These parks shall comply with Wis. Adm. Code, Ch. ATCP 125 which is hereby adopted by reference. The city may collect a fee for each transfer of a license as set forth in § 110.01(B)(9).

(D) Additions to parks. Licensees of mobile home parks shall furnish information to the City Clerk-Treasurer and Assessor on such homes added to their park within 5 days after their arrival on forms furnished by the City Clerk-Treasurer.

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(E) Parking permit fees. There is hereby imposed on each occupied nonexempt mobile home located in the city a parking permit fee, an amount as determined in accordance with Wis. Stats. § 66.058. These fees shall be paid to the City Clerk-Treasurer on or before the tenth day of the month following the month for which the fees are due. The licensee of a mobile home park shall collect these fees from each occupied nonexempt mobile home therein and to remit the fees to the City Clerk-Treasurer. Failure to do so is to be treated like a default in payment of personal property taxes and subject to all procedures and penalties applicable under Wis. Stats. Chs. 70 and 74.

(F) Payment of fees for homes outside parks. Occupants of nonexempt mobile homes outside of a mobile home park shall remit monthly parking permit fees directly to the City Clerk-Treasurer as provided in division (E) of this section.

(G) Inspection of parks. No park license shall be issued under this section until the City Clerk-Treasurer shall notify the Chief of Police, Public Property and Health Committee, Fire Chief and Building Inspector, or their authorized agents of the application, and these officials shall inspect each application on the premises described therein to determine whether the applicant and the premises on which the mobile homes will be located comply with the provisions of this section. These officials shall furnish to the Common Council in writing the information derived from the investigation and a statement as to whether the applicant and the premises meet all Department requirements. No license shall be renewed without a reinspection of the premises. For the purpose of making inspections, the officials or their authorized agents shall enter on any premises on which a mobile home is located or about to be located and to inspect the same and all accommodations connected therewith at any reasonable time.

(H) Management.

(1) In every mobile home park, there shall be located an office of the attendant or person in charge of the park. A copy of the park license and of this section shall be posted therein and the park register shall at all times be kept in the office.

(2) The attendant or person in charge together with the licensee shall:

(a) Keep a register of all residents to be open at all times to inspection by local, state and federal officials and shall show for all residents:

1. Names and addresses;
2. Number of children of school age;
3. State of legal residence;
4. Dates of entrance and departure;
5. License numbers of all mobile homes and towing or other vehicles;
6. States issuing the licenses;

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7. Purpose of stay in park;

8. Place of last location and length of stay; and

9. Place of employment of each occupant.

(b) Maintain the park in a clean, orderly and sanitary condition at all times;

(c) Ensure that the provisions of this section are complied with and enforced and report promptly to the proper authorities any violations of this section or any other violation of law which may come to the attendant's attention;

(d) Report to the Public Property and Health Committee all cases of persons or animals affected or suspected of being affected with any communicable diseases;

(e) Maintain in convenient places approved by the Fire Chief hand fire extinguishers in the ratio of 1 extinguisher to each 8 units;

(f) Collect the monthly parking permit fee provided for in this section; and

(g) Prohibit the lighting of open fires on the park premises.

(1989 Code, § 12.07)

§ 110.19 PEDDLERS, CANVASSERS, SOLICITORS AND TRANSIENT MERCHANTS.

(A) Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CANVASSER or **SOLICITOR**. A person who goes from place to place within the city soliciting orders for the future delivery of property or for services to be performed in the future. It includes any person who occupies any place within the city for the purpose of exhibiting samples and taking orders for future delivery.

PEDDLER. A person who goes from place to place within the city offering for sale property which he or she carries with him or her. It includes vendors who distribute their products to regular customers on established routes.

TRANSIENT MERCHANT. A person who engages at a fixed location in the city in the temporary business of selling property at that location. It does not include a person who does not sell from stock but exhibits samples for the purpose of securing orders for future delivery only. It includes a person who associates temporarily with any local business or conducts business in the name of a local merchant, dealer or auctioneer.

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(B) Exemptions. No license shall be required hereunder of the following:

- (1) Persons selling personal property at wholesale to dealers in such articles;
- (2) Newsboys;
- (3) Children under 18 years of age who are residents of the city;
- (4) Merchants or their employees delivering goods in the regular course of business;
- (5) Farmers or truck gardeners offering to sell the products of the farm or garden occupied and cultivated by them;
- (6) A veteran holding a special state license under Wis. Stats. § 440.51, but he or she shall comply with subs. (6), (7) and (8);
- (7) Any person soliciting for charitable, religious, patriotic or philanthropic purposes where the proceeds thereof are devoted solely to the purposes of the organization;
- (8) Sales required by statute or order of a court; or
- (9) Bona fide auction sales conducted pursuant to law.

(C) Investigation fee. At the time of filing his or her application, the applicant shall pay to the City Clerk-Treasurer a fee as set forth in § 110.01(B)(10) to cover the cost of investigation of the facts stated in the application.

(D) Investigation. The Chief of Police shall cause the applicant and the facts stated in the applicant's application to be investigated and shall within 5 days return the application to the City Clerk-Treasurer with his or her endorsement approving or disapproving the application. Disapproval of an application by the Chief of Police is subject to review by the Police and License Committee of the Common Council at the request of the applicant.

(E) Bond. Every applicant who is not a resident of Iowa County or who represents a firm whose principal place of business is located outside of the state shall file with the City Clerk-Treasurer a surety bond in the amount of \$500, approved by the Mayor, conditioned that the applicant will comply with all provisions of the ordinances of the city and the state laws regulating peddlers, canvassers, solicitors and transient merchants, and guaranteeing to any person doing business with the licensee that all money paid as a down payment will be accounted for and applied according to the representations of the licensee; and further guaranteeing that property purchased for future delivery will be delivered according to the representations of the licensee. Action on the bond may be brought by any person aggrieved.

(F) Excessive noise prohibited. No person licensed hereunder shall in hawking his or her wares create such noise as is annoying to a person of ordinary sensibilities.

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(G) Use of streets. No licensee shall use the public streets or sidewalks for purposes of sales in such a manner as to impede or inconvenience the public use of the streets or sidewalks.

(1989 Code, § 12.08) Penalty, see § 110.99

AMUSEMENTS

§ 110.30 DANCES.

(A) Permit required. No person shall hold a public dance within the city without obtaining a permit therefor from the dance hall inspector.

(B) Public dance defined. **PUBLIC DANCE** shall mean any dance which is open to the public by payment of an admission charge or where any collection or other means of raising money is used.

(C) Application. Application for a permit hereunder shall be made to the Clerk-Treasurer upon an application blank provided by the city. The Clerk-Treasurer shall refer the applications to the dance hall inspector. Disapproval of an application by the dance hall inspector is subject to review by the Police and License Committee of the Common Council at the request of the applicant.

(D) Appointment. The dance hall inspector shall be appointed by the Common Council. The dance hall inspector may appoint a deputy or designate a deputy sheriff or special police officer of the city to act as dance hall inspectors.

(E) Compensation. The dance hall inspector and any deputy appointed by him or her shall be paid an amount as set forth in § 110.01(B)(3) for each dance at which he or she acts as inspector. The dance hall inspector shall determine the number of inspectors necessary at each dance and shall make the necessary appointments.

(F) Powers of inspectors. The inspectors shall maintain order and decency at any public dance and in the vicinity thereof, and for that purpose shall have the power of a peace officer.

(G) Exemptions. Dances conducted by churches, schools and fraternal organizations shall be exempt from the requirements of this section, if the dance hall inspector is satisfied that those organizations provide adequate supervision of the dances.

(1989 Code, § 12.03) Penalty, see § 110.99

§ 110.31 PINBALL AND MUSIC MACHINES.

(A) License required. No person shall install, use or operate in any commercial establishment within the city any electronic game or music machine without obtaining a license therefor hereunder.

(B) License fee. See § 110.01(B)(11).

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(C) Application. Application for license hereunder shall be made on a form provided by the city which shall require such information as to the fitness of the applicant and the suitability of the premises for a license.

(1989 Code, § 12.09)(Am. Ord. 731, passed 7-1-2008) Penalty, see § 110.99

§ 110.32 PUBLIC AMUSEMENTS.

(A) *License required.* No person shall operate for gain within the city any public amusement or entertainment without a license therefor obtained under this section.

(B) *Public amusements and entertainments defined.* A **PUBLIC AMUSEMENT OR ENTERTAINMENT** is any activity or event conducted for gain to which the general public gains admission by the payment of an admission charge or the giving of a thing of value. It shall include but not be limited to circuses, carnivals, exhibitions, concerts, roller skating rinks and the like.

(C) *License fee.* See § 110.01(B)(12). (1989 Code, § 12.10)
Penalty, see § 110.99

§ 110.99 PENALTY.

(A) Any person who violates any provision of this chapter for which no penalty is provided shall be subject to the terms of § 10.99.

(B) Any person who shall violate any provision of this chapter or who shall fail to obtain a license or permit as required hereunder shall be subject to a penalty as provided in § 10.99 of this municipal code.

(1989 Code, § 12.11)

(C) Any person or establishment who violates § 110.15(J)(6) of the municipal code as it pertains to closing hours shall be penalized as follows:

- (1) For a first offense, the person or establishment shall receive a written warning of violation from the City Attorney;
- (2) For a second offense, the person or establishment shall receive a fine of \$100; and
- (3) For a third offense and thereafter, the person or establishment shall receive a \$500 fine. (Ord. 519, passed 4-6-1994)

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(D) Persons violating any provision of this chapter, as set forth in § 110.15(P), authorized by Wis. Stats. § 125.10, shall forfeit not more than \$500 per count plus all applicable costs. Each day a person is in violation may constitute a separate count. A person may be incarcerated in the Iowa County Jail for not more than 90 days for nonpayment of the forfeiture.

(Ord. 678, passed 6-7-2005; Am. Ord. 691, passed 2-6-2006)

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APPENDIX A: ALCOHOLIC BEVERAGE DEMERIT POINT SYSTEM

The point system for alcoholic beverage violations, as set forth in § 110.03, is as follows:

<i>Wis. Stats. §</i>	<i>Enabling Ordinance</i>	<i>Type of Violation</i>	<i>Point Value</i>
125.07(1)	Mun. Code § 110.15(A)	Traffic to Underage Person	50
125.07(2)	Mun. Code § 110.15(A)	Traffic to Intoxicated Person	10
125.07(3)	Mun. Code § 110.15(A)	Underage Person on Premises	10
125.07(7)	Mun. Code § 110.15(A)	Failure to Keep Proper Book	25
125.04	Mun. Code § 110.15(A) Mun. Code § 110.15(B)	Failure to be Licensed	100
125.04(12)(a) and (b)	Mun. Code § 110.15(A)	Transfer of License Without Authority	50
125.04(6) and 125.32(2)	Mun. Code § 110.15(A)	Corporate and Agent Violations	50
125.04(10)	Mun. Code § 110.15(A)	Failure to Post License	10
125.32	Mun. Code § 110.15(A)	Conducting Unlawful Business	50
125.075	Mun. Code § 110.15(A)	Injury or Death by Providing Alcohol to Underage Person	50
125.68(2)	Mun. Code § 110.15(A)	No License Bartender	10
125.68(4)	Mun. Code § 110.15(A)	Sell or Dispense After Hours	50
125.68(4)	Mun. Code § 110.15(A)	Open After Hours	10
125.68(4)(c)	Mun. Code § 110.15(A)	No Carryout After Hours	25
125.25	Mun. Code § 110.15(A)	On Premises Consumption (Class A Licensee)	50
125.25	Mun. Code § 110.15(A)	Leaving with Open Container (Class A Licensee)	25
125.28	Mun. Code § 110.15(A)	Wholesale Restrictions	50
-	Mun. Code § 130.001	Disorderly Conduct & Gambling	25

(Ord. 471, passed 1-2-1990)

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CHAPTER 111: CABLE TELEVISION

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REGULATIONS

§ 111.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number.

CABLE COMMUNICATIONS SYSTEM (SYSTEM). Any system which receives and amplifies signals broadcast by 1 or more television and/or radio stations and which transmits programming originated by the system or by another party and distributes such signals and programming by wire, cable, microwave, satellite or other means to persons who subscribe to the service.

CABLECASTING. Programming carried on a cable system, exclusive of broadcast signals, whether originated by the cable operator or any other party.

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CITY. The City of Mineral Point in its present incorporated form or as it may be changed by annexation.

COUNCIL. The Common Council of the City of Mineral Point.

GRANTEE. Any person granted a franchise by the Common Council under the provisions of this chapter.

GROSS SUBSCRIBER REVENUES. Any and all compensation, in whatever form, exchange or otherwise, derived from the providing of cable services to subscribers.

JOINT CABLE COMMITTEE. A joint committee consisting of 3 Common Council members appointed from each of the cities of Dodgeville and Mineral Point, which members shall be appointed by the Mayor of each city for 3-year terms, such that 1 member's term shall expire each year, with vacancies to be filled by appointment by the Mayor.

MAY. The action referred to is permissive.

NOTICE, REASONABLE. At least 5-days' notice, which notice in the case of the grantee may be personally delivered to any agent or employee of the grantee or may be mailed to the mailing address of the grantee as the same is on file with the City Clerk-Treasurer.

SHALL. The action referred to is mandatory and not directory.

SUBSCRIBER. A recipient of cable television service.

SUBSCRIBER, COMMERCIAL. A subscriber who receives cable services for the purpose of providing cable service for transient residents other than homes and apartment buildings, and is billed for and receives the service on a bulk rate basis.

(1989 Code, § 22.01) (Ord. 359, passed - -)

§ 111.02 GRANT OF AUTHORITY.

(A) There is hereby granted by the franchising authority to the grantee the right and privilege to construct, erect, operate and maintain in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto, in the city, poles, wires, cables, underground conduits, manholes and other cable conductors and fixtures necessary for the maintenance and operation in the city of a cable communications system, to be used for the sale and distribution of cable services to the residents of the city. The broadband cable services shall include but shall not be limited to the carriage of television and radio signals and any cablecasting programming.

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(B) The grantee shall, at all times during the operation of this franchise, be subject to all lawful exercise of the police power as may be hereafter provided by the franchising authority.
(1989 Code, § 22.02) (Ord. 359, passed - -)

§ 111.03 FRANCHISE TERRITORY.

(A) The franchise is for the present territorial limits of the city and for any area henceforth added thereto during the term of this franchise.

(B) Cable service shall be made available to the entire franchise area in accordance with the construction timetable contained in § 111.06 of this chapter.
(1989 Code, § 22.03) (Ord. 359, passed - -)

§ 111.04 INITIAL SERVICE AND EXTENSION OF SERVICE.

(A) Initial service shall be to all subscribers within the city limits who request service. Extensions of service will be required to previously unserved subscribers who are within 300 feet of an existing subscriber.

(B) The cost of these extensions which are more than 300 feet shall be paid by the subscriber seeking service. In the event the subscriber is not willing to pay the costs, grantee shall not be required either to extend the system or make the installation. In the event that a requested installation or extension of less than 300 feet shall involve excessive or unusual expense, the grantee shall be permitted to negotiate the expense with the subscriber seeking service and in the event that an agreement is not reached, the dispute shall be submitted to the Joint Cable Committee for a decision, which decision shall be final and binding between the parties.

(C) If costs for extensions of over 300 feet are paid for by 1 or more subscribers, the number of potential subscribers, consisting of either current nonsubscribers, legal building lots or minimum frontage building parcels, shall be determined by either the Joint Cable Committee or the local Building Inspector and certified to the grantee. Thereafter, the grantee shall not permit future subscribers to connect to the extensions without collecting the proportionate share of the original cost thereof, without interest, which sums shall be returned to the subscriber or subscribers originally paying for the cost thereof.

(D) This right to reimbursement shall only survive the death of the person originally paying the same such that it shall be payable to either his or her widow or widower and to noone else. In the event that the person entitled to reimbursement has moved from the premises, his or her right to reimbursement shall only exist to the extent that the person has on file with the grantee a current address, such that 1 certified mail notice of the existence of a reimbursement payment can be delivered. Any such reimbursement payment that cannot be so delivered shall be returned to the subsequent subscriber or subscribers paying the same.
(1989 Code, § 22.04) (Ord. 359, passed - -)

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§ 111.05 DURATION OF FRANCHISE; RENEWAL; FRANCHISES GRANTED.

(A) The duration of the rights, privileges and authorizations hereby granted shall be 15 years from the date hereof.

(B) The franchise shall be reviewed every 5 years through proceedings instituted by the Joint Cable Committee upon reasonable notice to the grantee, which review shall be a public meeting. Within 30 days either side of the commencement of the last 5 years of the present term of the franchise, and upon reasonable notice to the grantee, the Joint Cable Committee shall hold a public meeting for the purpose of considering the renewal of the franchise. Within 30 days following the holding of the meeting, the Joint Cable Committee shall recommend to the respective Common Councils as to whether or not the franchise shall be renewed. Within 30 days following such recommendation, the respective Common Councils shall decide whether or not to renew the franchise for an additional 5-year period following the expiration of the current term, and shall give reasonable notice of the decision to the grantee. Thereafter, each 5-year review meeting shall also be such renewal meeting to consider additional 5-year renewals. Grantee shall not be denied renewal unless it is determined that renewal would not be in the public interest and the reasons are documented. The city shall not arbitrarily and capriciously deny renewal nor shall renewal be denied without just cause. Nothing in this provision shall be construed to require the renewal.

(1989 Code, § 22.05) (Ord. 359, passed - -)

(C) The following ordinances granting specific franchises are hereby adopted by reference as if set out in full herein: Ordinances #359, 517, 603.

§ 111.06 COMMENCEMENT AND COMPLETION OF CONSTRUCTION.

Within 30 days of the date of the award of this franchise, the grantee must undertake the necessary steps to secure authorization to operate from the appropriate governmental agencies regulating cable service. If authorization to operate is not received within 12 months of the date of franchise, the franchise may be cancelled at the option of the city. The grantee shall begin construction immediately upon receiving the authorization, and shall have completed 50% of construction in the first 12 months and shall have completed 100% of construction within the following 12 months.

(1989 Code, § 22.06) (Ord. 359, passed --)

§ 111.07 DISTRIBUTION OF SERVICE.

Service shall be provided to all residents requesting service within 90 days of the completion of the construction in the area in which they are located as referred to in the preceding section. Thereafter, there shall be no unnecessary or unreasonable delay in furnishing service to a particular resident for a service hookup after receipt of application for service by the resident.

(1989 Code, § 22.07) (Ord. 359, passed - -)

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§ 111.08 TRANSFER OF CONTROL.

(A) No transfer of effective ownership or control of the cable system may take place, whether by forced or voluntary sale, lease, mortgage, assignment, encumbrance or any other form of disposition, without prior notice to and approval by the Council. The notice shall include full identifying particulars of the proposed transaction. Such transfer of ownership or control shall not include the disposition of facilities or equipment no longer required in the conduct of the business or a pledge or mortgage or similar instrument transferring conditional ownership of all or part of the system's assets to a lender or creditor in the ordinary course of business, so long as the lender or creditor does not thereby acquire the right to control the system's operations.

(B) In the event that grantee shall be adjudicated as bankrupt or placed in receivership, the city may, by resolution, declare this franchise forfeited and terminate it.

(1989 Code, § 22.08) (Ord. 359, passed --)

§ 111.09 BROADBAND CABLE COMMUNICATIONS SERVICE.

The communications system permitted to be installed and operated hereunder shall:

(A) Be operated in conformance with the FCC's *Technical Standards*, 47 C.F.R. pts.76.601 *et seq.*

(B) The grantee shall provide the local school district and the city a shared channel with the ability to cablecast television programming to all cable taps in the city. Grantee shall not charge for this service, but it is understood that the school district and the city shall be responsible for providing their own origination equipment.

(C) Grantee shall furnish monthly service without charge to each city school district building located in the city; the City Library; Iowa County Courthouse; Mineral Point Senior Citizen's Center; and the City Hall. Grantee shall not charge for either installation or monthly service, but internal wiring shall be the responsibility of the organization receiving service where more than 1 normal tap is being installed in each building.

(D) The grantee shall provide a system having 20-channel capacity and 2-way capability. The full 20-channel capacity and 2-way capability need not be initially activated to all subscribers, but must be built into the system for potential future activation. The system's 2-way capability shall be capable of video and data transmissions when activated.

(1989 Code, § 22.12) (Ord. 359, passed --)

§ 111.10 INSTALLATION AND LOCATION OF SYSTEM.

(A) All transmission and distribution structures, lines and equipment erected by the grantee within the city shall be so located as to cause minimum interference with the rights and reasonable convenience of property owners who join any of the streets.

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(B) So far as practical, the poles used for the grantee's distribution system shall be existing utility poles within the city subject to the reaching of mutually satisfactory rental agreements with the owners thereof, it being the intent of this provision to minimize the number of new or additional poles erected within the city. In the event that grantee is unable to reach what it feels is a mutually satisfactory rental agreement to use existing utility poles, grantee may apply to the city for permission to install poles of its own.

(C) It is hereby ordained that utility easements granted by the city and the respective utilities are presumed to include the facilities of the cable television service. Hereinafter all annexations to the city providing for utility easements are to specify cable television in the easements.

(D) In case of disturbance of any street or paved area the grantee shall, at its own cost and expense and in a manner approved by the city, replace and restore the street or paved area in as good a condition as before the work involving the disturbance was done.

(E) If at any time during the period of the franchise the city shall lawfully elect to alter or change the grade of any street, the grantee, upon reasonable notice by the city, shall remove, relay and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.

(F) The city reserves the right upon reasonable notice to require the grantee to protect, support, temporarily disconnect, relocate or remove from the city's streets any property of the grantee by reason of traffic conditions, public safety, street construction or vacation, change or establishment of street grade, installation of sewers, drains, water pipes, power or communications lines, tracks or other types of structure or improvements by governmental agencies or any other structure or public improvement. Reasonable notice for this provision shall be construed to mean at least 30 days except in the case of emergencies where no specific notice period shall be required. The grantee shall have an opportunity to present alternative routes, contest the expense and necessity of the change in its facilities required by this section and negotiate the shared cost. In no event shall the city require removal, disconnecting or relocating of the grantee's facilities without cause and the city shall consider the grantee's facilities in making its determination.

(G) Any poles or other fixtures placed in or adjacent to any street by the grantee shall be placed in such manner as to comply with all requirements of the city.

(H) The grantee shall, at the request of any person holding a moving permit issued by the city, temporarily raise or lower its wires to permit the moving of buildings. The expense of this temporary removal or raising or lowering wires shall be paid by the person requesting the same, and the grantee shall be given not less than 48-hours' advance notice to arrange for the temporary wire changes.

(I) The grantee shall have the authority to trim trees upon and overhanging streets of the city so as to prevent the branches of the trees from coming in contact with the wires and cables of the grantee, except that at the option of the city, the trimming may be done by it or under its supervision and direction at the expense of the grantee.

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(J) In all sections of the city where the cables, wires or other like facilities of public utilities are placed underground, the grantee shall place its cables, wires or other like facilities underground. In areas that existing utility cables are aboveground, underground cable will be required only if all other utility cables are to be buried.

(K) The grantee shall be responsible for obtaining its own pole or conduit use agreements from any utility companies or others maintaining poles or conduits throughout the city, whenever the grantee finds it necessary to make use of such poles or conduits. The city shall grant to the grantee authority to use public rights-of-way for the installation of its system wherever practicable, but it shall be the responsibility of the grantee to obtain its own easements from all other property owners in the city wherever it deems it necessary to do so. The easements referred to herein shall be those wherein grantee wishes to cross private property and no utility easement or other public way is available.

(L) At the expiration of the term for which the franchise is granted, or upon its termination and cancellation as provided for herein, the city shall have the right to require the grantee to remove, at its own expense, all portions of the cable television system from all streets within the city.

(1989 Code, § 22.13) (Ord. 359, passed - -)

§ 111.11 INDEMNIFICATION AND INSURANCE.

(A) It shall be expressly understood and agreed by and between the city and the grantee hereunder that the grantee shall save the city and its agents and employees harmless from and against all claims, damages, losses and expenses, including attorney's fees, sustained by the city on account of any suit, judgment, execution, claim or demand whatsoever arising out of but not limited to copyright infringements and all other damages arising out of the installation, operation or maintenance of the cable system authorized herein, whether or not any act or omission complained of is authorized, allowed or prohibited by this chapter and any franchise granted hereunder.

(B) The grantee shall maintain throughout the term of the franchise a general comprehensive liability insurance policy against liability for loss, damage or personal injury, death or property damage, occasioned by the operations of grantee under any franchise granted hereunder. The city shall be named as an additional insured under such insurance and a copy of the current in-force policy shall be deposited with the City Clerk-Treasurer. These amounts shall be:

- (1) For bodily injury or death to any 1 person, \$500,000; within the limit, however, of \$1,000,000 for bodily injury or death resulting from any 1 accident; and
- (2) For property damage resulting from any 1 accident, \$500,000.

(1989 Code, § 22.14) (Ord. 359, passed - -)

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§ 111.12 SERVICE STANDARDS.

(A) The grantee shall put, keep and maintain all parts of the system in good condition throughout the entire franchise period.

(B) Upon termination of service to any subscriber, the grantee shall promptly remove all its facilities and equipment from the premises of the subscriber upon his or her request.

(C) Grantee shall render efficient service, make repairs promptly and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum system use.

(D) Grantee shall not allow its cable or other operations to interfere with television reception of persons not served by grantee, nor shall the system interfere with, obstruct or hinder in any manner the operation of the various utilities serving the residents of the city.

(1989 Code, § 22.15) (Ord. 359, passed - -)

§ 111.13 COMPLAINT PROCEDURE.

(A) The Joint Cable Committee is designated by the city as having primary responsibility for the continuing administration of the franchise and implementation of complaint procedures, with the City Clerk of each city being the individual to whom complaints should be referred. Such complaints shall be made in writing. The Joint Cable Committee shall have final authority to settle complaints relative to cable TV service provided by grantee including the right to order necessary correctional work done to resolve the complaint.

(B) When there have been similar complaints made or when there exists other evidence, which, in the judgment of the Joint Cable Committee casts doubt on the reliability or quality of cable service, the Joint Cable Committee shall have the right and authority to compel the grantee to test, analyze and report on the performance of the system at its own expense. This report shall be delivered to the Joint Cable Committee no later than 14 days after the Joint Cable Committee formally notifies the grantee and shall include the following information: the nature of the complaints which precipitated the special tests; what system component was tested, the equipment used and procedures employed in the testing; the results of the tests; and the method in which the complaints were resolved.

(C) The tests and analyses shall be supervised by a professional engineer not on the permanent staff of the company. The aforesaid engineer shall sign all records of the special tests and forward to the Joint Cable Committee the records with a report interpreting the results of the tests and recommending actions to be taken by the city.

(D) The grantee shall maintain a local office in the area, having a publicly listed telephone, answered either personally or by answering service, such that complaints and requests for repairs or adjustments may be received on a 24-hour basis.

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(E) The grantee shall maintain a repair and maintenance crew capable of responding to subscriber complaints or requests for service within 24 hours after receipt of the complaint or request. If the complaint or request for service was caused by or is the result of a problem with the cable television system itself, no charge shall be made to the subscriber for this service. If the complaint or request for service was not the fault of the cable television system, the grantee shall be permitted to charge the subscriber for the service.

(F) The grantee shall establish procedures for receiving, acting upon and resolving subscriber complaints, and shall furnish a notice of the procedures to each subscriber at the time of initial subscription to the system.

(1989 Code, § 22.16) (Ord. 359, passed - -)

§ 111.14 PREFERENTIAL OR DISCRIMINATORY PRACTICE PROHIBITED.

Grantee shall not, as to rates, changes, service, service facilities, rules, regulations, employment or in any other respect, make or grant any undue preference or advantage to any party, nor subject any party to any prejudice or disadvantage. Such prohibition shall not apply to situations considered by the city to be in the public interest, nor shall it apply to promotional or advertising campaigns or practices temporarily engaged in by the grantee.

(1989 Code, § 22.17) (Ord. 359, passed - -) Penalty, see § 10.99

§ 111.15 GRANTEE'S APPLICATION INCORPORATED.

By its acceptance of the franchise, grantee specifically grants and agrees that its application is hereby incorporated by reference and made a part of this chapter. In the event of a conflict between proposed service listed in the application and the provisions of this chapter, that provision which provides the greatest benefit to the city, in the opinion of the Common Council, shall prevail. Failure to provide services as promised in grantee's application as incorporated herein shall be deemed a breach of this chapter to which the provisions in § 111.18 of this chapter shall apply.

(1989 Code, § 22.18) (Ord. 359, passed - -)

§ 111.16 SUBSCRIBER PRIVACY MAINTAINED.

(A) No monitoring of any terminal connected to the system shall take place without specific written authorization by the user of the terminal in question on each occasion. In no event shall monitoring of any kind take place without a clearly visible light signal and clearly audible sound signal. The light shall be visible and the sound audible at a distance of at least 30 feet from the terminal at the time of monitoring.

(B) If monitoring is to occur, each terminal shall be equipped with a switch by which the user can, upon notification by means of the aforementioned light and sound, prevent the monitoring of that terminal, notwithstanding any prior agreement.

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(C) Grantee shall not, except as required by governmental action, provide any data concerning its subscribers or users or their use of its services without first securing written authorization for the provision of such data, from the subscriber involved.

(1989 Code, § 22.19) (Ord. 359, passed - -)

§ 111.17 MODIFICATION OF ORDINANCE.

(A) The city reserves the right to add, delete, modify or otherwise change provisions of this chapter whenever it deems the same necessary, which changes shall only be made after reasonable notice to the grantee and a public hearing, notice of which hearing shall be published for 3 consecutive times, the last of which shall be at least 10 days prior to the hearing. Such additions, deletions, modifications or changes shall be reasonable and shall not materially affect the grantee's operation under the franchise nor its income or profits derived therefrom.

(B) The grantee may initiate proceedings to change or modify this chapter upon application to the city, which also shall only be done after the holding of a public hearing as set forth herein.

(1989 Code, § 22.20) (Ord. 359, passed - -)

§ 111.18 ENFORCEMENT.

Any violation by the grantee, its vendee, lessee or successors, of any material provision of this chapter, or of any supplemental written agreement entered into, by and between the city and the grantee, or the failure to promptly perform any of the provisions thereof, or the incidence of an unreasonable number of subscriber complaints not otherwise satisfactorily resolved shall, after reasonable notice to the grantee requesting such performance or the resolution of such complaints, be cause for a penalty as prescribed in § 10.99 of this municipal code.

(1989 Code, § 22.25) (Ord. 359, passed --)

RATES AND CHARGES

§ 111.30 RATES.

(A) The maximum initial rates which may be charged by the grantee to subscribers shall be as follows:

(1) *Residential.*

(a) *One outlet.* Installation fee of \$25 and \$8 per month (including converter).

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(b) *Additional outlets.* Installation fee of \$10 and \$1.50 per month.

(2) *Commercial.*

(a) *One outlet.* Time and material installation and \$8.50 per month (including converter).

(b) *Additional outlets.* Time and material installation and \$1.50 per month.

(B) Upon interruption of service, except for acts of God or with express prior permission of the city, the following shall apply:

(1) Over 72 hours, a 20% rebate of 1-month's fees for all affected subscribers.

(2) A full-month's rebate for any month in which 1/2 or more of the service is interrupted.

(1989 Code, § 22.09) (Ord. 359, passed - -; Am. Ord. 372, passed - -)

§ 111.31 RATE CHANGES.

(A) The grantee may increase its rates only by permission of the Common Council as set forth in this chapter, except that the grantee may increase the monthly charge for 1 television set by not more than the annual cost of living increase as determined by the Producers Price Index, Bureau of Labor Statistics, U.S. Department of Labor, which increase may be made once a year for the then-current calendar year based on the index as determined for the preceding calendar year. Any such increase that is not imposed for any particular year may be accumulated and imposed in future years, but the accumulation may only be for 2 years. Any such increase may be vetoed by the Council within 60 days after notice of the proposed increase.

(B) Grantee may increase monthly rates above that permitted in the preceding paragraph or at other times throughout a particular year, only in the following manner: the grantee shall notify the city in writing by certified mail of the proposed rate change requested. Within 60 days of the receipt of the notice, the Common Council shall set the date for a public hearing at which there shall be considered the matter of whether the proposed rate increase would be in the public interest. Notice of the public hearing shall be given by publication of notice thereof in the official newspaper of the city at least once a week for 3 consecutive weeks, the last publication thereof to be at least 10 days before the date of the hearing. Written notice thereof shall be given to the grantee at least 30 days before the date of the hearing. Within 30 days after the hearing, the Common Council shall approve or disapprove the proposed rate increase and the approval or disapproval shall be final. Authority to increase rates shall not be unreasonably withheld by the city.

(C) The determination of the grantee's rates shall be subject to the rules and regulations of any state or federal authority which may subsequently, by due process of law, acquire jurisdiction over this type of industry or enterprise, providing the jurisdiction extends to rates.

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(D) The grantee shall submit annually, or as otherwise requested upon reasonable notice, a current financial statement (signed by an officer if grantee is a corporation or by 1 of the owners thereof if it is not) including profit and loss and all sales and revenues from this franchise area, and any other such operating information as may be requested by the city. The city shall be permitted to audit grantee's records, at its own expense, at any time it wishes to do so, consistent with normal and usual accounting practices.

(1989 Code, § 22.10) (Ord. 359, passed - -)

§ 111.32 FEES.

(A) For the use of the streets, and other facilities of the incorporated area of the city for the operation of the cable communications system and for the supervision thereof by the franchising authority, the grantee shall pay to the franchising authority an amount equal to 3% of the grantee's gross subscriber revenues from the operations of the cable communications system in the incorporated area of the city during each year. Such payments to be made by March 15 of each year based on the gross subscriber revenues for the preceding 12 months.

(B) The rate provided for herein may be reviewed by the city after reasonable notice to the grantee and after a public hearing, notice of which hearing shall be published 3 times in the official newspaper of the city, the last of which publications shall be at least 10 days prior to the hearing.

(1989 Code, § 22.11) (Ord. 359, passed - -)