

CHAPTER 10**LICENSE AND PERMIT ORDINANCE****10.01 GENERAL LICENSE AND PERMIT ORDINANCE**

(1) **TITLE/PURPOSE.** This ordinance is entitled the "City of Cornell General License and Permit Ordinance". The purpose of this ordinance is to regulate activities in the City of Cornell which, in the public interest, should be conducted on a permit basis.

(2) **GENERAL PROVISIONS**

(A) **Fees/Penalties.** The Common Council has, by this ordinance, required and confirmed the following licenses or permits and the Common Council has established the fees to be paid by any person to the City for the noted licenses, or noted permits, as set forth in Appendix E Schedule of Fees, and the penalties to be paid by any person to the City for violations of these ordinances and the violations of the license and permit conditions for penalties of these ordinances and/or the specific ordinance as set forth in Appendix A, Penalty and Deposit Schedule.

(B) **General License and Permit Ordinance Provisions**

(1) The terms "license" and "permit" may be used in these City ordinances and by the City of Cornell, its officers, its employees and its agents interchangeably.

(2) No person shall engage or allow on land owned, used or leased by that person in the City of Cornell any particular use, activity, business or operation until that person has obtained the required license or permit as established by the City in this ordinance.

(3) The application for the license or permit shall be in writing to the City of Cornell. The application shall be filed with the City Administrator. The City Administrator shall prepare and shall then forward, when available and when approved by the Common Council, the appropriate written application form to the applicant. The application form for licenses or permits from the City shall contain the appropriate requests for relevant information as may be required by State or Federal statute, as required by any City of Cornell ordinance or as otherwise required by order of the Common Council. The City Administrator shall cooperate fully with the Common Council in the preparation of the application forms.

The Common Council shall approve the form and content of the application form. All application fees are to be paid to the City Administrator upon submittal of the completed application form by the applicant or the agent of the applicant.

(4) The applications shall, at minimum, contain:

(a) The name, address and business telephone number of the applicant, if available. In addition, if a partnership, the name, address and business telephone number of every partner. If a corporation, the name, address and business telephone number of at least one officer of a corporation.

(b) The age and state or national residence of the applicant. In addition, if a partnership, the age and state or national residence of every partner. If a corporation, the age and state or national residence of every officer of the corporation.

(c) If a corporation, the state of incorporation. If not the State of Wisconsin, proof of authorization from the State of Wisconsin to do business in the State of Wisconsin.

(d) If a corporation, the name, address and business telephone number of registered corporate agent. The application shall be subscribed and sworn to by the applicant, if a natural person; by a general partner if a partnership; by a principal officer, if a corporation.

(5) All application fees are to be made payable to the City Administrator. The application for license or permit, when submitted to the City Administrator by the applicant, shall contain the appropriate fee amount attached. If the license or permit is issued, a receipt for payment of the license or permit fee shall be issued by the City Administrator. If the license or permit is not issued, then the fee amount shall be returned with the written denial letter by the City Administrator. No refunds, unless expressly noted in any City of Cornell ordinance or by order of the Common Council shall be refunded by the City Administrator unless the license, registration or permit is denied by the Common Council.

(6) Unless expressly provided herein by this ordinance, by other City of Cornell ordinance provisions or as specifically noted below, all licenses and permits shall be issued by the City Administrator upon approval by the Common Council.

(7) The following specific licenses and permits may be issued by the City Administrator without formal Common Council approval if the application is completed and submitted to the City Administrator, the Common Council does not desire to formally approve or deny the license or permit, and if the proper application fee amount is attached.

- (a)** Cigarette License under Section 10.02.
 - (b)** Provisional Operators Licenses under Section 10.07(8).
 - (c)** List Others:
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(8) Unless expressly provided herein or by other City ordinance provisions, all licenses and permits shall be issued to commence on July 1 and expire on the next June 30 in the fiscal year of issuance or upon the date specifically noted in the license, registration or permit and in either case the license or permit expires after midnight on the last effective date.

(9) The license or permit shall be issued to the applicant by the City Administrator. If the license, registration or permit is for a particular premises, a particular use, a particular activity, a particular business or a particular operation, the particular use, activity, business or operation shall be clearly described in the license or permit. No license or permit is transferable, unless specifically provided herein or by other City ordinance provisions, to another person without consent of the Common Council. If specific conditions are established in the license or permit by the Common Council, those conditions shall be expressly noted in writing on the license or permit and shall be accepted by the applicant by signature prior to issue by the City Administrator of the license or permit and prior to approval by the Common Council.

(10) The City Administrator shall keep a record of the licenses and permits issued by him or her and the amount of the fees collected for each license or permit.

(11) The license or permit must be dated and signed by the City Administrator if required by the Common Council and by such other person, if any, as the Common Council shall direct for the particular license. The license or permit shall contain the date of issuance and the date of expiration. The license or permit must be exhibited for

public view in a conspicuous location by the applicant on the premises or in the vehicle, wherever the licensed or permitted use, activity, business or operation will occur.

(12) Prior to the issuance by the City Administrator of any license or permit, the applicant must agree that he, she, or it will fully comply with any and all conditions established with the issuance of the license or permit and he, she, or it will comply with all applicable City ordinances. Moreover, the applicant further agrees to obey all reasonable orders and reasonable directives of any Law Enforcement Officer related to the compliance with applicable ordinances and compliance with conditions in the licenses or permits. Failure to fully comply with the conditions of the license or permit or failure to fully comply with these City of Cornell ordinances will allow the Common Council to suspend or revoke the license or permit and to take whatever other necessary legal action may be provided by these ordinances and State and Federal law. Any suspension or revocation of any license or permit will be after hearing, unless emergency conditions require immediate and temporary suspension by the Common Council. Following any temporary suspension, written notice of same shall be served on or mailed to the last known address of the licensee or permittee. Such notice shall include a statement that the party may make a written request for a hearing before the Common Council within thirty (30) days, by mailing or delivering to the City Administrator a request for hearing.

(13) Unless expressly provided herein or by other City of Cornell ordinance provisions, all applications for reissuance and renewal of any City license or City permit will be filed by the licensee or permittee with the City Administrator within sixty (60) days before the expiration date of the previous license or permit. The Common Council may waive this sixty (60)-day provision at its sole discretion.

(14) Unless expressly provided herein or by other City ordinance provisions, the person, once issued the license or permit by the City Administrator and upon acceptance of the license or permit by that person and the acceptance by that person of the conditions attached thereto, consents to the entry of the Common Council or any designee of the Common Council upon the licensed or permitted premises at reasonable hours, upon hours noted within this ordinance, or upon hours noted by the license or permit, for regulatory inspection. Further, the person consents to allow the Common Council or any designee to remove from the premises and to introduce into evidence in court for violations of this chapter, all relevant items and relevant products found therein by the Common Council or its designee. The person issued a license or permit shall comply with all applicable Federal and State laws, applicable Federal and State regulations, and applicable City of Cornell ordinances.

(15) Unless expressly provided herein or by other City ordinance provisions, any license or permit may be suspended or revoked for cause after the proper City of Cornell hearing noted below, unless in an emergency condition determined by the Common Council wherein the license or permit can be suspended temporarily for a set time period. Prior to any action for suspension or revocation, the Common Council must, by the City Administrator, receive a certified complaint concerning the licensee or permittee. The following persons may file a certified complaint with the Common Council:

- (a)** The Mayor
- (b)** The City Administrator
- (c)** The City Alderperson
- (d)** City Law Enforcement Officer
- (e)** Any City of Cornell resident
- (f)** Other Law Enforcement Officials

(16) The person subject to charges for violation of any City ordinance or any violation of a condition of any license or permit shall be provided a copy of the verified complaint and notice of hearing before the Common Council. The hearing shall be required to be not less than fifteen (15) days nor more than forty-five (45) days after receipt of notice unless stipulated in writing by the Common Council and the person subject to charges. All alcohol license hearings, pursuant to Section 125.12, (1993-1994) Wisconsin Statutes, must be held not less than three (3) days and not more than ten (10) days from the date of issuance of a summons.

(17) The person subject to charges for violation of any City of Cornell ordinance or any violation of a condition of any license or permit shall be entitled to the following:

- (a)** Representation by legal counsel.
- (b)** Right to present and cross examine witnesses.
- (c)** Right to subpoena witnesses by the Mayor

Issuing subpoenas to compel attendance of witnesses.

(18) The Common Council may, after the hearing for any person previously issued a license, registration or permit by the Common Council act as follows:

- (a)** Revoke the license or permit as a final decision.
- (b)** Suspend the license or permit for a date certain as a final decision.
- (c)** Request additional information as an interim decision prior to taking future action.
- (d)** Take no action on the license or permit as a final decision.

(19) The final decision of the Common Council to revoke or suspend a license or permit shall be subject to appeal as provided by State law.

(20) The City Administrator of the City of Cornell or other designee of the Council, by order of the Common Council, shall repossess any license or permit that has been revoked or suspended by the Common Council.

(21) If no hearing is requested by the person subject to charge within the time herein noted, the license or permit shall be revoked at the discretion of the Common Council at its next or subsequent meeting.

(22) Specific reasons that may be considered, at minimum, by the Common Council in determining whether to initially issue or not issue a license or permit are as follows:

- (a)** A false statement was made by the applicant in the application filed with the City of Cornell and/or a false statement was included in the material attached to the application by the applicant.
- (b)** The applicant was not of a good moral character.
- (c)** The applicant was not a citizen of the United States of America or was not a legal alien.

(d) The use, activity, business or operation as proposed by the applicant in the application filed with the City of Cornell in the material attached to the application will be detrimental to the peace, health, safety and general welfare of the public in the City of Cornell.

(e) The use, activity, business or operation as proposed by the applicant in the application filed with the City and in the material attached to the application will likely cause a public nuisance in the City.

(f) The use, activity, business or operation as proposed by the applicant in the application and the material attached to the application will not likely conform or meet the conditions of this ordinance or any specific State or Federal law or regulations.

(g) The applicant, if a corporation, was not authorized to do business in the State of Wisconsin.

(h) The applicant was not of age.

(i) The applicant was not legally competent.

(j) The applicant did not meet the specific conditions for issuance of a specific license or permit.

(k) (List Others)

(23) Specific reasons that may be considered, at minimum, by the Common Council in determining whether to revoke or suspend a previously issued license or permit are as follows:

(a) A false statement was made by the applicant in the application filed with the City and/or a false statement was included in the material attached to the application by the applicant.

(b) The applicant was not of a good moral character.

(c) The applicant was not a citizen of the United States of America or was not a legal alien.

(d) The current or former uses, activities, businesses or operations as operated or maintained by the operator is detrimental to the peace, health, safety and general welfare of the public in the City.

(e) The current or former uses, activities, business or operations as operated or maintained by the applicant have or do cause a public nuisance in the City.

(f) The current or former uses, activities, businesses or operations as operated or maintained by the applicant have or do not conform to or meet the conditions of this ordinance or any specific State or Federal law or regulations.

(g) The applicant, if a corporation, has not been or is not authorized to do business in the State of Wisconsin.

(h) The applicant has not been or is not of age.

(i) The applicant is not legally competent.

(j) The applicant has not or does not meet the specific conditions included in the previously issued license or permit.

(k) The applicant failed to operate or maintain the uses, activities, businesses or operations as set forth in the application or in the material attached to the application by the applicant.

(l) For alcohol beverages, revocations, suspensions, refusals to issue or renew, refer to Section 125.12, Wisconsin Statutes, for specific listing of procedures and reasons relating to alcohol beverage licenses.

(24) Any licenses or permits issued by the City of Cornell are to be deemed non-exclusive unless otherwise so stated. No special privileges, franchises, or agreements are intended or to be inferred by the issuance of any license or permit by the City other than those specifically prescribed privileges noted in the license or permit. Any license, registration or permit issued by the City shall not be issued for the purpose of any restraint of trade or commerce nor issued for the purpose of establishing any type or form of monopoly. No City official, employee or agent shall refuse to issue or reissue a license or permit because

of the belief of the City official, employee or agent that there are sufficient licenses or permits in the City unless the State law or Common Council has established a quota or fixed amount of licenses or permits. However, with alcohol licenses, the Common Council has specific authority to determine a quota level or to refuse to issue a license in the best interest of the City's health and welfare. In each case where a license or permit is refused, the Common Council shall do so based upon rational reasons, which shall be conveyed by the City Administrator to the applicant. The Common Council may, for the following licenses or permits, require an annual performance review to determine if the City will, upon application, reissue the license or permit. This review will be held at least thirty (30) days prior to the expiration date for the license or permit. The review will be completed under the supervision of the City Administrator. The results of the review will be forwarded in writing to the applicant within ten (10) days of expiration. The following licenses and permits will require a performance review:

(a) Cable TV Permit. Cable TV permits will require performance review as required by State and Federal law and these ordinances.

(b) (List Others.

(25) The applicant, upon acceptance of the written license or permit, acknowledges that he or she has not been induced by any promise or statement, whether verbal or written, made by any City official, employee, or agent concerning the license or permit of any written conditions attached to and made part of the license or permit. If any applicant, upon receipt of the license or permit, has any questions or concerns regarding the license or permit, the applicant is urged, in a timely manner, to contact the City Administrator.

(26) The City Administrator, upon receipt of any application for any license, registration or permit, shall, if he or she has reason to believe the person is not eligible for the license or permit, is not fit for a license or permit, or the premises are not suitable for the uses, activities, businesses, or operations contemplated by the applicant, refer the matter to the City of Cornell, Police Department, or other Law Enforcement Officer for investigation or inspection. If, as a result of the investigation, the City Administrator believes the license or permit should be denied or delayed, he or she shall forward these recommendations to the Common Council. The investigation report shall be in writing and shall be filed with the City Administrator.

(27) Any license or permit issued or reissued by this ordinance may be revoked for cause by the Common Council. Any licensee or permittee whose license or permit is revoked may apply for a public hearing within ten (10) days of revocation. The licensee or permittee shall be entitled to be represented by legal counsel. After hearing, the Common Council may confirm the previous revocation, reverse the revocation action, modify the revocation action or suspend for a date certain the license or permit. The determination by the Common Council after the hearing shall be final.

(28) All applications for licenses or permits shall be in writing unless otherwise noted in the specific license or permit section. The City Administrator shall prepare application forms as soon as practicable after any new license or permit ordinance has been enacted by the City of Cornell. The applicant, unless otherwise noted by the specific license or permit section, shall submit the application form as developed and provided by the City to the City Administrator. Upon application, unless otherwise noted in the specific license or permit section, all licenses and permits shall be issued, reissued or referred for issuance by the Common Council within thirty (30) days of the City Administrator receiving a copy of a fully completed application form. All licenses and permits when issued or reissued by the City Administrator shall have the signature of the City Administrator.

(29) No license or permit shall be issued or reissued for any use, activity, business or operation if the use, activity, business or operation would be a nuisance in fact or if the use, activity, business or operation would violate any Federal laws or regulations or any State laws or regulations.

(30) The Common Council may, subject to the limitations of Section 111.335, (1 993-1 994) Wisconsin Statutes, consider any criminal convictions for violation of Federal and State laws, Federal and State regulations or County of Chippewa or City of Cornell ordinances in its determination to issue, reissue, suspend or revoke any license or permit. Specifically, criminal convictions, pursuant to Section 111.335, (1 993-1 994) Wisconsin Statutes, shall be sufficient grounds for failure to issue or reissue a license or permit or sufficient grounds for revocation or suspension of a license or permit.

(31) The Common Council shall, prior to revoking or suspending any license or permit or prior to refusing to issue or reissue a license or permit, make on the record specific written findings as to the reason or reasons the Common Council took such action. Any applicant, licensee, or permittee shall be provided the

opportunity for a public hearing (or a private hearing if circumstances under the open meeting law so allow and are advisable), an opportunity to cross examine witnesses, present evidence and to require that witnesses testify under oath. The Common Council, in lieu of revoking a license or permit, may suspend the license or permit to a date certain not to exceed sixty (60) days. The Common Council, in lieu of refusing to issue or reissue a license or permit, may delay determination action pending further investigation upon its own motion for sixty (60) days beyond the original required determination date.

(32) The following license and permit applications for issuance or reissuance of a license or permit be published with a Class 1 notice:

(List and Describe)

(33) Class A and B alcohol license applications, pursuant to Section 125.04, (1993-1994) Wisconsin Statutes, shall be published in the general circulation newspaper weekly. If published daily, a Class 3 notice is required.

(34) Any applicant for a license or permit can request a hearing by the Common Council prior to the decision of the Common Council regarding the issuance, reissuance or denial of a license or permit application. The request for hearing shall be filed with the City Administrator. The Common Council shall be required to provide a hearing if requested by the applicant in writing.

(35) Unpaid Forfeitures. Claims and Taxes: Right to Refuse License Or Permit.

(a) Pursuant to Sec. 66.117, Wis. Stats., City officials may refuse to issue any license or permit to applicants who have not paid overdue forfeitures resulting from a violation of a municipal ordinance of the City of Cornell or of an ordinance of another municipality subject to an agreement between the municipalities as set forth in Sec. 66.117, Wis. Stats. If a permit is refused, the applicant may appeal such refusal to the Common Council.

(b) All applicants for license or permits for doing business in the City whether such licenses are required by City Ordinance or State Statute including

alcohol beverage licenses required by Chapter 125 Wis. Stats., must have all personal property taxes, assessments, claims and forfeitures owing to the City paid in full before the City Administrator may issue such license.

(c) **Procedural Requirements.** The procedural provisions of the Wisconsin Statutes 125.12(3) (as amended from time-to-time) relating to refusals to issue or renew licenses are hereby adopted as the procedure for refusal to issue or renew licenses under this section.

1. When an applicant applies for a license and such applicant has unpaid personal property taxes, claims, assessments, or forfeiture, the City Administrator shall so inform the Common Council and may send a written notice to the applicant of the unpaid amount and of the requirements of this ordinance;

2. When notified by the City Administrator of such unpaid amounts, the Common Council shall notify the licensee or prospective licensees of the City's intention not to renew or issue the license and provide the licensee with an opportunity for such hearing;

3. The hearing shall be conducted as required for refusals to renew as provided in Sec. 125.12(2)(b), Wis. Stats, and judicial review shall be as provided in Section 125.12(2)(2), Wis. Stats. The issue to be determined shall be whether or not the applicant has unpaid personal property taxes, special assessments, claims or forfeitures.

(C) Administration and Enforcement of License/Permit Violations

(1) Unless otherwise noted by order of the Common Council, the City Administrator shall be the officer of the City responsible for administration of the City of Cornell licenses and permits.

(2) Unless otherwise noted by order of the Common Council, the City Police Department shall be the department of the City of Cornell responsible to investigate matters related to licenses and permits and to file any complaints with the Common Council regarding licenses and permits.

(3) Unless otherwise noted by order of the Common Council, the City Police Department and the City Administrator shall be the officials of the City of Cornell responsible to enforce the conditions established in the licenses and permits issued by the City and to enforce the ordinances of the City against any licensee,

permittee, and other person violating these ordinances.

(4) Unless otherwise noted by order of the Common Council, the City Administrator shall, in a timely fashion, inform the Common Council of any alleged or real violation of the conditions established in the licenses or permits issued by the City and any alleged or real violations of City ordinances.

(5) Unless otherwise noted by order of the Common Council, the City Administrator shall be responsible to inform the Common Council of the refusal of any person to obtain a required license or permit.

10.02 CIGARETTE LICENSE ORDINANCE

(1) **COVERAGE.** Every person, pursuant to Section 134.65, (1993-1994) Wisconsin Statutes and this ordinance who sells in the City of Cornell cigarettes to a person who does not hold a City Cigarette License or who does not hold a permit under Sections 1 39.30 to 1 39.41 or 1 39.79, (1 993-1 994) Wisconsin Statutes, shall seek and obtain a cigarette sales license from the City of Cornell. The fee for such license shall be, by statute, Five Dollars (\$5.00) per premises. The fees are as noted in Appendix E. The license shall be issued from July 1 of one year to June 30 of the next year. The license shall be issued by the City Administrator prior to any person selling any cigarettes without the proper license or permit in the City.

(2) **APPLICATION/LICENSE.** The applications and license shall designate the premises. Such licenses are not transferable from one person to another or are not to be amended from one premise to another. The application shall include:

- (A) The name of the applicant.
- (B) The address of the applicant.
- (C) The address of the premises.
- (D) The business and residential telephone number of the applicant, if any.
- (E) The age of the applicant.

(3) ORDINANCE/LICENSE

(A) Persons subject to this ordinance shall comply with Section 1 34.65 and 134.66 Wisconsin Statutes, and any amendments thereto, and this ordinance. (Ref. Section 20.01(26))

(B) The City Administrator shall provide copies of this ordinance at no cost to any applicant requesting copies under this ordinance.

(C) The applicant and any other person subject to this ordinance shall comply as follows:

(1) No person shall be issued or reissued a cigarette retail sales license in the City until the appropriate fee has been paid to the City Administrator.

(2) No person shall be issued or reissued a cigarette retail sales license in the City who has failed to properly and fully complete and submit to the City Administrator the application form as developed and provided by the City of Cornell.

(3) No person shall be issued or reissued a cigarette retail sales license in the City until the person owns or has leased a premises in the City of Cornell.

10.03 DOG LICENSE ORDINANCE: CATS AND OTHER ANIMALS
(1) COVERAGE.

(A) Annual Fee. Every person, pursuant to Chapter 174, (1993-1 994) Wisconsin Statutes, and this ordinance, residing in the City of Cornell who owns a dog that on January 1 is at least five (5) months old, shall annually at the time and in the manner prescribed by law for the payment of personal property taxes, seek and obtain a dog license for his or her dog from the City of Cornell. The fee for the license shall be not less than the minimum established by State Law (Section 174.05, Wis. Stats.).

The fee shall be set by the Council and noted in Appendix E. The license shall be from January 1 through December 31.

(B) Collecting Official. The City Administrator is designated as the collecting official under Section 1 74.065, Wisconsin Statutes, The City Administrator shall follow the procedures for issuing dog licenses set forth in Section 174.07, Wisconsin Statutes and license fee payment provisions of Section 1 74.08, Wisconsin Statutes. The late fee provided in Section 174.05(5), Wisconsin Statutes applicable to dog license issued after April 1st or within 30 days of acquiring ownership is adopted by the City of Cornell. The collecting official shall collect the late fee whenever applicable under the statute.

(C) Tag Required. Upon payment of the required license tax and upon presentation of evidence that the dog is currently immunized against rabies, as required by Section 10.03(3) of this Chapter, the City Administrator shall complete and issue to the owner a license for such dog containing all information required by state law. The City Administrator shall also deliver to the owner, at the time of issuance of the license, a tag of durable material bearing the same serial number as the license, the name of the county in which issued and the license year.

(D) Tag to be Attached to Dog. The owner shall securely attach the tag to a collar and the collar with the tag attached shall be kept on the dog for which the license issued at all times, except as provided in Section 10.03(3)(E).

(E) Presumption - Untagged Dog. The fact that a dog is without a tag-attached to the dog by means of a collar shall be presumptive evidence that the dog is unlicensed. Any City Law Enforcement Officer or humane officer shall seize, impound or restrain any dog for which a dog license is required which is found without such tag attached.

(F) Helper Dog - Exemption. Notwithstanding the foregoing, every dog specifically trained to lead blind, deaf, or mobility impaired persons (helper dog) is exempt from the dog license tax, and every person owning such a dog shall receive annually a free dog license from the City Administrator upon application therefor.

(2) DOG LICENSE REQUIRED: DEFINITIONS.

(A) License Required. It shall be unlawful for any person in the City of Cornell to own, harbor or keep any dog for more than five (5) months of age without complying with the provisions of this Chapter relating to the listing, licensing and tagging of the same.

(B) **Definitions.** In this Chapter, unless the context or subject matter otherwise require:

(1) **Owner.** Any person owning, harboring or keeping a dog or cat and the occupant of any premises on which a dog or cat remains or to which it customarily returns daily for a period of ten (10) days; such person is presumed to be harboring or keeping the dog or cat within the meaning of this Section.

(2) **At Large.** To be off the premises of the owner and not under the control of some person either by leash, but a dog or cat within an automobile of its owners, or in an automobile of any other person with the consent of the owner of said dog or cat, shall be deemed to be upon the owner's premises.

(3) **Dog.** Any canine, regardless of age or sex.

(4) **Cat.** Any feline, regardless of age or sex.

(5) **Neutered.** As used herein describing a dog or cat shall mean a dog or cat having nonfunctional reproductive organs.

(6) **Animal.** Mammals, reptiles and birds.

(7) **Cruel.** Causing unnecessary and excessive pain or suffering or unjustifiable injury or death.

(8) **Law enforcement Officer.** Has that meaning as appears in Sec. 967.02(5), Wis. Stats., and includes a humane officer under Sec. 58.07, Wis. Stats., but does not include a conservation warden appointed under Sec. 23.10, Wis. Stats.

(9) **Farm Animal.** Any warm-blooded animal normally raised on farms in the United States and used for food or fiber.

(10) **Pet.** Any animal kept and treated as a pet.

State Law Reference: Sections 174.05 through 174.10 Wis. Stats. (3)

RABIES VACCINATION REQUIRED FOR LICENSE

(A) **Rabies Vaccination.** The owner of a dog shall have the dog vaccinated against rabies by a veterinarian within thirty (30) days after the dog

reaches four (4) months of age and revaccinate within one (1) year after the initial vaccination. If the owner obtains the dog or brings the dog into the City of Cornell after the dog has reached four (4) months of age, the owner shall have the dog vaccinated against rabies within thirty (30) days after the dog is brought into the City unless the dog has been vaccinated as evidenced by a current certificate of rabies vaccination. The owner of a dog shall have the dog revaccinated against rabies by a veterinarian before the date of that immunization expires as stated on the certificate of vaccination or, if no date is specified, within two (2) years after the previous vaccination. The certificate of vaccination shall meet the requirements of Section 95.21(2) Wis. Stats.

(B) Issuance of Certificate of Rabies Vaccination. A veterinarian who vaccinates a dog against rabies shall complete and issue to the owner a certificate of rabies vaccination bearing a serial number and stating the owner's name and address, the name, sex, spayed or unspayed, neutered or unneutered, breed and color of the dog, the date of the vaccination, the type of rabies vaccination administered and the manufacturer's serial number, the date that the immunization expires as specified for that type of vaccine by the Center for Disease Control of the U.S. Department of Health and Human Services and the City.

(C) Copies of Certificate. The veterinarian shall keep a copy of each certificate of rabies vaccination in a file maintained for this purpose until the date that the immunization expires or until the dog is revaccinated, whichever occurs first.

(D) Rabies Vaccination Tag. After issuing the certificate of rabies vaccination, the veterinarian shall deliver to the owner a rabies vaccination tag of durable material bearing the same serial number as the certificate, the year the vaccination was given and the name, address and telephone number of the veterinarian.

(E) Tag to be Attached. The owner shall attach the rabies vaccination tag or a substitute tag to a collar and a collar with the tag attached shall be kept on the dog at all times, but this requirement does not apply to a dog during competition or to a dog securely confined indoors. The substitute tag shall be of a durable material and contain the same information as the rabies vaccination tag. The requirements of this paragraph do not apply to a dog which is not required to be vaccinated under Subsection (A).

(F) Duplicate Tag. The veterinarian may furnish a new rabies vaccination tag with a new serial number to an owner in place of the original tag upon

presentation of the certificate of rabies vaccination. The veterinarian shall then indicate the new tag number of the certificate and keep a record in the file.

(G) Cost. The owner shall pay the cost of the rabies vaccination and the cost associated with the issuance of a certificate of rabies vaccination and the delivery of a rabies vaccination tag.

(4) KENNEL LICENSES

(1) The license fee is set by state law which is adopted herein by reference as if set forth in full. The purchase of a kennel license as opposed to individual dog licenses is optional with the dog owner as provided in Section 174.053. Wis. Stats. Immunization against rabies must be established as for other dog licenses. Sec. 174.053(2) Wis. Stats.

(2) The owner or keeper of a kennel shall keep at all times a kennel license tag attached to the collar of each dog over five (5) months old kept by the owner or keeper under a kennel license but this requirement does not apply to a show dog during competition, to a dog securely confined indoors or to a dog securely confined in a fenced area. These tags may be transferred from one dog to another within the kennel whenever any dog is removed from the kennel. The rabies vaccination tag or substitute tag shall remain attached to the dog for which it is issued at all times but this requirement does not apply to a show dog during competition or to a dog securely confined indoors. No dog bearing a kennel tag shall be permitted to stray or to be taken anywhere outside the limits of the kennel unless the dog is on leash or temporarily for the purposes of hunting, breeding, trial, training or competition.

State Law Reference: Section 174.053, Wis. Stats. Cross Reference 10.03(19)

(5) Reserved for future use.

(6) RABIES QUARANTINE

(A) Dogs and Cats Confined. If a district is quarantined for rabies, all dogs and cats within the City shall be kept securely confined, tied, leashed or muzzled. Any dog or cat not confined, tied, leashed or muzzled is declared a public

nuisance and may be impounded. All officers shall cooperate in the enforcement of the quarantine. The City Administrator shall promptly post in at least three (3) public places in the City notices of quarantine.

(B) Exemption of Vaccinated Dog or Cat from City Quarantine. A dog or cat which is immunized currently against rabies, as evidenced by a valid certificate of rabies vaccination or other evidence, is exempt from the City quarantine provisions of Subsection (A) if a rabies vaccination tag or substitute tag is attached to the dog's or cat's collar. Notwithstanding the foregoing, the provisions of Section 95.21 (4)(b) as expressed in Subsection (C) of these ordinances shall control if a dog or cat bites a person.

(C) Quarantine or Sacrifice of an Animal Suspected of Biting a Person or Being Infected or Exposed to Rabies.

(1) Quarantine or sacrifice of dog or cat. An officer shall order a dog or cat quarantined if the officer has reason to believe that the animal bit a person, is infected with rabies or has been in contact with a rabid animal. If a quarantine cannot be imposed because the dog or cat cannot be captured, the officer may destroy the animal. The officer shall attempt to destroy the animal in a humane manner and in a manner which avoids damage to the animal's head.

(2) Sacrifice of other animals. An officer may order destroyed or may destroy an animal other than a dog or cat if the officer has reason to believe that the animal bit a person or is infected with rabies.

(D) Quarantine of Dog or Cat

(1) Delivery to isolation facility or quarantine on premises of owner. An officer who orders a dog or cat to be quarantined shall deliver the animal or shall order the animal delivered to an isolation facility as soon as possible but no later than twenty-four (24) hours after the original order is issued or the officer may order the animal to be quarantined on the premises of the owner if the animal is immunized currently against rabies as evidenced by a valid certificate of rabies vaccination or other evidence. In the event of non-compliance, the City shall collect the animal, the owner to pay the cost thereof.

(2) Health risk to humans. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal bit a person, the custodian of an isolation facility or the owner shall keep the animal under strict isolation under the supervision of a veterinarian for at least ten (10) days after the incident occurred. In this paragraph, "supervision of a veterinarian" includes, at a minimum, examination of the animal on the first day of isolation on the last day of

isolation and on one (1) intervening day. If the observation period is not extended and if the veterinarian certifies that the dog or cat has not exhibited any signs of rabies, the animal may be released from quarantine at the end of the observation period.

(3) Risk to animal health.

a. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal and if the dog or cat is not currently immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for one hundred eighty (180) days. The owner shall have the animal vaccinated against rabies between one hundred fifty-five (155) and one hundred sixty-five (165) days after the exposure to a rabid animal.

b. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal but if the dog or cat is immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for sixty (60) days. The owner shall have the animal revaccinated

against rabies as soon as possible after exposure to a rabid animal.

(4) Sacrifice of a dog or cat exhibiting symptoms or rabies. If a veterinarian determines that a dog or cat exhibits symptoms of rabies during the original or extended observation period, the veterinarian shall notify the owner and the officer who ordered the animal quarantined and the officer or veterinarian shall destroy the animal in a humane manner and in a manner which avoids damage to the animal's head. If the dog or cat is suspected to have bitten a person, the veterinarian shall notify the person or the person's physician.

(E) Delivery of Carcass: Preparation: Examination by Laboratory of Hygiene. An officer who destroys an animal shall deliver the carcass to a veterinarian or local health department. The veterinarian or local health department shall prepare the carcass, properly prepare and package the head of the animal in a manner to minimize deterioration, arrange for delivery by the most expeditious means feasible of the head of the animal to the State Laboratory of Hygiene and dispose of or arrange for the disposal of the remainder of the carcass in a manner which minimizes the risk or exposure to any rabies virus. The Laboratory of Hygiene shall examine the specimen and determine if the animal was infected with rabies. The State Laboratory of Hygiene shall notify the City, the veterinarian or local health department which prepared the carcass and, if the animal is suspected to have bitten a person, that person or the person's physician.

(F) Cooperation of Veterinarian. Any practicing veterinarian who is requested to be involved in the rabies control program by an officer is encouraged to cooperate in a professional capacity with the City, the Laboratory of Hygiene, the local health department, the officer involved and, if the animal is suspected to have bitten a person, the person's physician.

(G) Responsibility for Quarantine and Laboratory Expenses. The owner of an animal is responsible for any expenses incurred in connection with keeping the animal in an isolation facility, supervision and examination of the animal by a veterinarian, preparation of the carcass for laboratory examination and the fee for the laboratory examination. If the owner is unknown, the county is responsible for these expenses.

(7) RESTRICTIONS ON KEEPING OF DOGS. CATS. FOWL AND OTHER ANIMALS

(A) Restrictions. It shall be unlawful for any person with the City of Cornell to own, harbor or keep any dog or cat which:

(1) Habitually pursues any vehicle upon any public street, alley or highway in the City.

(2) Assaults or attacks any person as described in Subsection (B) or destroys property.

(3) Is at large within the limits of the City.

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(4) Habitually barks or howls to the annoyance of any person or persons. (See Section 10.03(12)).

(5) Kills, wounds or worries any domestic animal.

(6) Is known by such person to be infected with rabies or to have been bitten by an animal known to have been infected with rabies.

(7) In the case of a dog, is unlicensed.

(B) Vicious Dogs and Animals

(1) No vicious dog shall be allowed off the premises of its owner unless muzzled or on a leash in charge of the owner or a member of the owner's

immediate family over sixteen (16) years of age. For purposes of enforcing this Section, a dog shall be deemed as being of a vicious disposition if, within any twelve (12) month period it bites two (2) or more persons or inflicts serious injury to one (1) person in unprovoked circumstances on or off of the owner's premises. Any vicious dog which is found off the premises of its owner other than as hereinabove provided may be seized by any person and, upon delivery to the proper authorities, may, upon establishment to the satisfaction of a court of competent jurisdiction of the vicious character of said dog, by testimony under oath reduced to writing, be destroyed by the authorized officer.

(2) No person shall harbor or permit to remain on his premises any animal that is habitually inclined toward attacking persons or animals, destroying property, barking excessively or making excessive noises or running after automobiles.

(C) Animals Running at Large

(1) No person having in his possession or ownership any animal or fowl shall allow the same to run at large within the City. The owner of any animal, whether licensed or unlicensed, shall keep his animal tied or enclosed in a proper enclosure so as not to allow said animal to interfere with the passing public or neighbors. Any animal running at large unlicensed and required by state law or City Ordinance to be licensed shall be seized and impounded by a humane or authorized officer.

(2) A dog or cat shall not be considered to be running at large if it is on a leash and under control of a person physically able to control it.

(D) Owner's Liability for Damage Caused by Dogs: Penalties. The provisions of Section 174.02, Wis. Stats., relating to the owner's liability for damage caused by dogs together with the penalties therein set forth are hereby adopted and incorporated herein by reference.

(E) Dog Excrement Disposition. The owner, keeper or person having physical possession of a dog or dogs shall remove and properly dispose of any dog excrement deposited by said animal immediately after the animal has relieved itself whether the animal be on private or public property.

(8) IMPOUNDMENT OF ANIMALS

(A) Animal Control Agency

(1) The City of Cornell may contract with or enter into an agreement with such person, persons, organization or corporation to provide for the operation of an animal shelter, impoundment of stray animals, confinement of certain

animals disposition of impoundment animals and for assisting in the administration of rabies vaccination programs.

(2) The City of Cornell does hereby delegate to any such animal control agency the authority to act pursuant to the provisions of this Section.

(B) **Impounding of Animals.** In addition to any penalty hereinafter provided for a violation of this Chapter, any officer or Humane Officer may impound any dog, cat or other animal which habitually pursues any vehicle upon any street, alley or highway of the City, assaults or attacks any person, is at large within the City, habitually barks, cries or howls, kills, wounds or worries any domestic animal or is infected with rabies. In order for an animal to be impounded, the impounding officer must see or hear the violation of this Section or have in his possession a signed statement of a complaining witness alleging the facts regarding the violation and containing an agreement to reimburse the City for any damages it sustains for improper or illegal seizure.

(C) **Claiming Animal: Disposal of Unclaimed Animals.** After seizure of animals under this Section by a law enforcement or humane officer, the animal shall be impounded. The officer shall notify the owner, personally or through the U.S. Mail, if such owner be known to the officer or can be ascertained with reasonable effort, but if such owner be unknown or unascertainable, the officer shall post written notice in three (3) public places in the City, giving a description of the animal, stating where it is impounded and the conditions for its release, after the officer has taken such animal into his possession. Dogs that are apprehended and confined shall be kept by the City of Cornell for at least seven (7) days at the pound and/or Chippewa County Humane Association, unless released sooner if claimed by the owner.

If within seven (7) days after such notice the owner does not claim such animal, the officer may dispose of the animal in a proper and humane manner; provided, if an animal before being impounded has bitten a person, the animal shall be retained in the Animal Shelter for ten (10) days for observation purposes. Within such times, the owner may reclaim the animal upon payment of impoundment fees, such fees to be established by resolution of the Common Council. In the alternative, animal control or humane agencies serving the City may provide notice pursuant to their operating procedures and state law. No animal shall be released from the pound without being properly licensed if so required by state law or City Ordinance.

(D) **Sale of Impounded Animals.** After the time period noted herein, the dog will be either sold for inoculation, apprehension, confinement and care costs, or it will be destroyed in a careful proper and humane manner. The owner, if he or she claims the dog, shall pay the above-noted costs incurred by the City to the City Administrator.

(E) **City Not Liable for Impounding Animals.** The City and/or its animal control agency shall not be liable for the death or injury of any animal which has been impounded or disposed of pursuant to this Section.

(9) **DOGS AND CATS RESTRICTED IN CEMETERIES.** No dog or cat shall be permitted in any public cemetery. Every dog specially trained to lead deaf, blind, or physically impaired persons shall be exempt from this Section.

(10) **DUTY OF OWNER IN CASE OF DOG OR CAT BITE.** Every owner or person harboring or keeping a dog or cat who knows that such dog or cat has bitten any person shall immediately report such fact to the officer and shall keep such dog or cat confined for not less than ten (10) days or for such period of time as the officer shall direct. The owner or keeper of any such dog or cat shall surrender the dog or cat to a law enforcement or humane officer upon demand for examination.

(11) **INJURY TO PROPERTY BY ANIMALS.** It shall be unlawful for any person owning or possessing an animal, dog or cat to permit such animal, dog or cat to go upon any parkway or private lands or premises without the permission of the owner of such premises and break, bruise, tear up, crush or injure any lawn, flower bed, plant, shrub, tree or garden in any manner whatsoever, or to defecate or urinate thereon.

(12) **BARKING DOGS OR CRYING CATS.** It shall be unlawful for any person knowingly to keep or harbor any dog which habitually barks, howls or yelps, or any cat which habitually cries or howls to the great discomfort of the peace and quiet of the neighborhood or in such manner as to materially disturb or annoy persons in the neighborhood who are of ordinary sensibilities. Such dogs and cats are hereby declared to be a public nuisance. A dog, animal or cat is considered to be in violation of this Section when two (2) complaints are filed with the officer within a four (4) week period.

(13) **PROVIDING PROPER FOOD AND DRINK TO CONFINED ANIMALS**

(A) No person owning or responsible for confining or impounding any animal may refuse or neglect to supply the animal with a sufficient supply of food and water as prescribed in this Section.

(B) The food shall be sufficient to maintain all animals in good health.

(C) If potable water is not accessible to the animals at all times, it shall be provided daily and in sufficient quantity for the health of the animal.

Section 948.13, Wis. Stats.

(14) **PROVIDING PROPER SHELTER**

(A) **Proper Shelter.** No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter as prescribed in this Section. In the case of farm animals, nothing in this Section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices in the particular county where the animal or shelter is located.

(B) **Indoor Standards.** Minimum indoor standards of shelter shall include:

(1) **Ambient temperatures.** The ambient temperature shall be compatible with the health of the animal.

(2) **Ventilation.** Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.

(C) **Outdoor Standards.** Minimum outdoor standards of shelter shall include:

(1) **Shelter from sunlight.** When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, "caged" does not include farm fencing used to confine farm animals.

(2) **Shelter from inclement weather**

a. Animals generally. Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.

b. Dogs. If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size to accommodate the dog shall be provided.

(D) **Space Standards.** Minimum space requirements for both indoor and outdoor enclosures shall include:

(1) **Structural strength.** The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.

(2) **Space requirements.** Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.

(E) **Sanitation Standards.** Minimum standards of standards of sanitation for both indoor and outdoor enclosures shall include periodic cleaning to remove excreta and other waste materials, dirt and trash so as to minimize health hazards.

State Law Reference: Section 948.14, Wis. Stats.

(15) **NEGLECTED OR ABANDONED ANIMALS**

(A) **Neglected or Abandoned Animals**

(1) No person may abandon any animal.

(2) Any authorized officer may remove, shelter and care for an animal found to be cruelly exposed to the weather, starved or denied adequate water, neglected, abandoned or otherwise treated in a cruel manner and may deliver such animal to another person to be sheltered, cared for and given medical attention, if necessary. In all cases, the owner, if known, shall be immediately notified and such officer, or other person, having possession of the animal shall have a lien thereon for its care, keeping and medical attention and the expense of notice.

(3) If the owner or custodian is unknown and cannot, with reasonable effort, be ascertained or does not, within five (5) days after notice, redeem the animal by paying the expenses incurred, it may be treated as a stray and dealt with as such.

(4) Whenever in the opinion of any such officer an animal is hopelessly injured or diseased so as to be beyond the probability of recovery, it shall be lawful for such officer to destroy such animal and the owner thereof shall not

recover damages for the destroying of such animal unless he shall, by clear and convincing evidence, prove that such destruction was unwarranted.

(5) Section 948-16, Investigation of Cruelty Complaints, and Section 948.17, Wis. Stats. Expenses of Investigation, are hereby adopted by reference and made a part of this Chapter.

(B) **Injured Animals.** No person who owns, harbors or keeps any animal shall fail to provide proper medical attention to such animal when and if such animal becomes sick or injured. In the event the owner of such animal cannot be located, the City or any animal control agency with whom the City has an agreement or contract shall have the authority to take custody of such animal for the purpose of providing medical treatment, and the owner thereof shall reimburse the person or organization for the costs of such treatment.

State Law Reference: Sections 948.15, 948.16 and 948.17, Wis. Stats.

(16) **CRUELTY TO ANIMALS AND BIRDS PROHIBITED**

(A) **Acts of Cruelty Prohibited.** No person except an authorized officer or health or humane officer in the pursuit of his duties shall, within the City, shoot or destroy or commit an act of cruelty to any animal or bird or disturb any bird's nests or bird's eggs.

(B) **Leading Animal From Motor Vehicle.** No person shall lead any animal upon a City street, alley or parking lot from a motor vehicle or from a trailer or semi-trailer drawn by a motor vehicle.

(C) **Use of Poisonous and Controlled Substances.** No person may expose any pet animal owned by another to any known poisonous substance or controlled substance listed in Sec. 161.14, Wis. Stats., whether mixed with meat or other food or not, where it is reasonable to anticipate the substance may be eaten by such animal or for the purpose of harming the animal. This Subsection shall not apply to poison used on one's own premises and designed for the purpose of rodent and pest extermination, nor the use of a controlled substance used in accepted veterinarian practice or in research by persons or organizations regularly engaged in such research.

(D) **Use of Certain Devices Prohibited.** No person may directly or indirectly, or by aiding, abetting or permitting the doing thereof either put, place, fasten, use or fix upon or to any animal used or readied for use for a work purpose or for use in exhibition, competition, rodeo, circus or other performance any of the

following devices: a bristle bur, tack bur or like device; or a poling device used to train a horse to jump which is charged with electricity or to which have been affixed nails, tacks or other sharp points.

(E) Shooting at Caged or Staked Animals. No person may instigate, promote, aid or abet as a principal, agent, employee, participant or spectator, or participate in the earnings from or intentionally maintain or allow any place to be used for the shooting, destroying or wounding with a firearm or any deadly weapon any animal that is tied, staked out, caged or otherwise intentionally confined in a man-made enclosure, regardless of size.

(17) DOGNAPPING AND CATNAPPING. No person may take the dog or cat of another from one place to another without the owner's consent or cause such a dog or cat to be confined or carried out of the City or held for any purpose without the owner's consent. This Section does not apply to authorized officers or humane society agents engaged in the exercise of their official duties, or as otherwise permitted herein.

(18) VEHICLE ACCIDENTS. The operator of any vehicle involved in an accident resulting in injury to or death of a dog, cat or other animal which appears to be a pet shall immediately notify the owner, and, if not, the authorized officer.

(19) LIMITATION ON NUMBER OF DOGS OR CATS

(A) Purpose. The keeping of a large number of dogs or cats within the City for a considerable period of time detracts from and, in many instances, is detrimental to, healthful and comfortable life in such areas. The keeping of a large number of dogs or cats is, therefore, declared a public nuisance.

(B) Definitions

(1) Residential Lot. A residential lot means a parcel of land zoned as residential, occupied or to be occupied by a dwelling, platted or unplatted, and under common ownership. For the purpose of this Section, any vacant parcel or parcels adjoining a dwelling and under the same ownership shall constitute one (1) lot.

(C) Number Limited

(1) No family or person shall own, harbor or keep in its possession more than three (3) dogs or cats on any residentially zoned lot without the prior approval of the Common Council, which may be conditional, except that a litter

of pups or kittens or a portion of a litter may be kept for not more than twelve (12) weeks from birth. If more than one (1) family resides on a residential lot, then only a total of four (4) dogs or cats shall be allowed on the residential lot unless the prior approval is obtained from the Common Council. For the purposes of this Section, the term "family" shall be defined as one (1) or more persons.

(2) The above requirement may be waived with the approval of the Common Council or when a kennel license has been issued by the City. Such application for waiver shall first be made to the City Administrator who shall forward the request to the City Police Department. After review, these officials shall make a recommendation to the Common Council prior to Board action on the matter.

(20) PENALTIES

(A) Any person violating Sections 10.03(1 3), 10.03(14), 10.03(1 5), 10.03(16), 10.03(17), 10.03(18), 10.03(19) shall be subject to a forfeiture of not less than Fifty Dollars (\$50.00) and not more than Two Hundred Dollars (\$200.00), together with costs. This Section shall also permit the City Attorney to apply to the court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating any aspect of this Ordinance.

(B)

(1) Anyone who violates Section 10.03(2), 10.03(3), 10.03(4), 10.03(5), 10.03(6) of this Code of Ordinances or Chapter 1 74, Wis. Stats., shall be subject to a forfeiture of not less than Twenty-five Dollars (\$25.00) and not more than Two Hundred Dollars (\$200.00) for the first offense and not less than One Hundred Dollars (\$100.00) and not more than Four Hundred Dollars (\$400.00) for any subsequent offenses, together with costs.

(2) An owner who refuses to comply with an order issued under Section 10.03(6) to deliver an animal to an officer, isolation facility or veterinarian or who does not comply with the conditions of an order that an animal be quarantined shall be fined not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) or imprisoned not more than sixty (60) days or both, together with costs.

(C) Any person who violates Section 10.03(7) through 10.03(1 3) of this Code of Ordinances shall be subject to a forfeiture of not less than Twenty-five Dollars (\$25.00) and not more than One Hundred Dollars (\$100.00) for the first

violation and not less than Fifty Dollars \$50.00) and not more than Two Hundred Dollars (\$200.00) for subsequent violations, together with costs.

10.04 Reserved for future use

10.05 ADULT-ORIENTED ESTABLISHMENTS

(1) **PURPOSE.** It is a lawful purpose of the Common Council of the City of Cornell to enact regulatory ordinances protecting and promoting the general welfare, orderly conduct, health, and safety of its residents. The Common Council of the City believes it is in the best interests of the health and safety of its residents to regulate and thereby diminish the dangerous secondary effects that accompany adult-oriented establishments. The dangerous and negative secondary effects associated with adult-oriented businesses include, but are not limited to, increased criminal activity of both a sexual and violent nature, lowered property values, urban blight and a loss of pride in a community, and an increase in sexually transmitted diseases.

The Common Council of the City has knowledge of studies conducted by Phoenix, Arizona, Whittier, California, Adams County, Colorado, Indianapolis, Indiana, New York, New York, New Hanover County, North Carolina, Austin, Texas, Beaumont, Texas, Dallas, Texas, El Paso, Texas, and Newport News, Virginia, indicating adult-oriented establishments have either a strong or a direct correlation to increased crime. A Land Use Study conducted by the City of Phoenix, Arizona, concentrating on the link between adult-oriented establishments and their relation to increased crime found that the number of sex offenses was five hundred and six percent (506%) greater in neighborhoods where adult-oriented establishments were located, and which also concluded that the crimes of rape, lewd and lascivious behavior, and child molestation were one hundred and thirty-two percent (132%) greater in neighborhoods where adult-oriented establishments were located.

The Common Council of the City has knowledge of studies conducted by Garden Grove, California, Los Angeles, California, Indianapolis, Indiana, Minneapolis, Minnesota, Las Vegas, Nevada, New York, New York, New Hanover County, North Carolina, Oklahoma City, Oklahoma, Austin, Texas, El Paso, Texas, Newport News, Virginia, and St. Croix County, Wisconsin, indicating a correlation between the location of adult-oriented establishments and decreased property values of the surrounding areas. A study surveying 100 Oklahoma City real estate appraisers concluded that a concentration of adult-oriented businesses may mean large losses in property values.

The Common Council of the City has knowledge of studies conducted by Minneapolis, Minnesota, Ellicottville, New York, Islip, New York, New Hanover County, North Carolina, Amarillo, Texas, and El Paso, Texas, concluding that when adult-oriented establishments are allowed to concentrate in one area, the negative secondary effects of adult-oriented establishments may be magnified. The Ellicottville, New York, Village Board of Trustees found that isolation of adult-oriented establishments limits their negative secondary effects. A report by the Islip, New York, Department of Planning found that two adult-oriented establishments located near each other created a dead zone in an otherwise healthy business district.

A legislative report prepared by the Sexually Oriented Business Revision Committee for the Houston City Council concluded that, due to criminal activity associated with adult-oriented establishments, licenses should be required of all adult-oriented establishment employees. The legislative report further concluded that the lack of clear lines of view, insufficient lighting, and locked rooms decreases the ability of adult-oriented establishment owners, managers, and employees to monitor behavior and prevent lewd

behavior on the part of customers, and that this is behavior which may lead to unsanitary conditions and the spread of communicable diseases. A report based on a memorandum from the Tucson, Arizona Police Department Investigative Services to the City Prosecutor dated May 1, 1990 concluded that police officers found a wide variety of illegal sexual conduct at all adult-oriented establishments, that virtually every establishment had employees arrested for prostitution or obscene sex shows, and which found that one of the employees arrested for such acts was a 15 year old girl.

The Common Council of the City recognizes that establishments licensed to serve alcohol are the most likely to conduct adult entertainment, as defined herein, and that this adult entertainment can lead to exploitation of human sexuality. Such exploitation takes the form of employing or permitting persons to perform adult entertainment as an inducement to patrons to purchase alcoholic beverages. The purpose of this Ordinance shall be to license and regulate the operations and locations of adult-oriented establishments, as defined herein, within the limits of the City of Cornell. This Ordinance has neither the purpose nor effect of imposing limitations or restrictions on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the purpose nor effect of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. As based upon the following recitation of issues involving such types of businesses, it is deemed to be in the best interests of the health, welfare, and safety of the residents of the City to adopt this Ordinance pursuant to the authority vested in the City under Wis. Stat. '62.11(5).

Based in part upon the foregoing, and with the purpose of diminishing the negative secondary effects of adult-oriented establishments, defined as including, but not being limited to, maintenance of property values, protection of the quality of neighborhoods and commercial districts, the quality of life, and the health, safety, and welfare of residents of the City, the following regulations are adopted.

(2) **DEFINITIONS.**

- (A) **Adult bath house.** An establishment or business which provides the services of baths of any kind, including all forms and methods of hydrotherapy, that is not operated by a medical practitioner or a professional therapist licensed by the State of Wisconsin and which establishment provides to its patrons an opportunity to engage in specified sexual activities as defined in this Ordinance.
- (B) **Adult Bookstore.** An establishment having as a substantial or significant portion of its stock in trade, for sale, rent, lease, inspection, or viewing books, films, video cassettes, magazines, or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to specific anatomical areas or specified sexual activities, as defined below.
- (C) **Adult body painting studio.** An establishment or business wherein patrons are afforded an opportunity to paint images on a body which is wholly or partially nude.

For purposes of this Ordinance, an adult body painting studio shall not include a tattoo parlor.

- (D) **Adult cabaret.** A cabaret which features dancers, strippers, male or female impersonators, or similar entertainers, performing or presenting material having as its dominant theme, or distinguished or characterized by, an emphasis on any actual or simulated specified sexual activities or specified anatomical areas as defined below.
- (E) **Adult entertainment.** Any exhibition of any motion picture, live performer, display or dance of any type, which has as its dominant theme, or is distinguished or characterized by an emphasis on, any actual or simulated specified sexual activities, or specified anatomical areas, as defined below.
- (F) **Adult massage parlor.** An establishment or business with or without sleeping accommodations which provides services of massage and body manipulation, including exercises, heat and light treatments of the body, and all forms and methods of physiotherapy, not operated by a medical practitioner or professional physical therapist licensed by the State of Wisconsin and which establishment provides for its patrons the opportunity to engage in specified sexual activity as defined in this Ordinance.
- (G) **Adult mini-motion picture theater.** An enclosed building with a capacity less than (25) persons used for presenting material having as its dominant theme, or distinguished or characterized by an emphasis on, matters depicting, describing, or relating to specified sexual activities, or specified anatomical areas, as defined below, for observation by patrons therein.
- (H) **Adult modeling studio.** An establishment or business which provides the service of modeling for the purpose of reproducing the human body wholly or partially nude by means of photography, painting, sketching, drawing, or otherwise.
- (I) **Adult motion picture theater.** An enclosed building with a capacity of (25) or more persons used for presenting material having as its dominant theme, or distinguished or characterized by an emphasis on, matters depicting, describing, or relating to specified sexual activities, or specified anatomical areas, as defined below, for observation by patrons therein.
- (J) **Adult novelty shop.** An establishment or business having as a substantial or significant portion of its stock in trade in novelty or other items including movies, tapes, videos, books, and any devices, which are distinguished or characterized by an emphasis on, or designed for, specified sexual activity as defined herein or stimulating such activity.

- (K) **Adult-oriented establishment.** Establishments including, but not limited to, adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult bath houses, adult massage parlors, adult modeling studios, adult body painting studios, adult novelty shops and adult cabarets. It further means any premises to which public patrons or members are invited or admitted and which are physically arranged so as to provide booths, cubicles, rooms, compartments, or stalls separate from the common areas of the premises for the purpose of viewing adult oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, patron or member, whether or not such adult entertainment is held, conducted, operated, or maintained for a profit, either direct or indirect.
- (L) **Entertainer.** A dancer, stripper, impersonator, or similar performer referred to in Subsection (E).
- (M) **Operator.** Any person, joint venture, partnership, limited liability company, or corporation operating, conducting, maintaining, or owning any adult-oriented establishment.
- (N) **Residential dwelling.** A building or any portion thereof which is used as a place of residence for one or more families as one or more habitable units, with facilities which are used or available for use for living, sleeping, cooking, and eating.
- (O) **Sensitive Area.** An area which could be negatively affected by being in close proximity to an adult oriented establishment, including but not limited to, child care facilities, medical facilities, schools and other educational facilities, places of worship, libraries, community centers, and recreation areas.
- (P) **Specified anatomical areas.** Specified anatomical areas means:
- (1) Less than completely and opaquely covered human genitals, pubic region, perineum, buttocks, female breasts below the point immediately above the top of the areola.
 - (2) Human male genitals in a discernible turgid state, even if opaquely covered.
- (Q) **Specified sexual activities.** Specified sexual activities means simulated or actual:
- (1) Showing of human genitals in a state of sexual stimulation or arousal.
 - (2) Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochistic abuse, fellatio, or cunnilingus.

(3) Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.

(R) **Youth center.** Any center that provides, on a regular basis, recreational, vocational, academic, or social services and/or programs for persons younger than 21 years old for those persons and their families.

(3) **LICENSE.**

(A) Except as provided in Sec. 10.05 (15) below, from and after the effective date of this Ordinance, no adult-oriented establishment shall be operated or maintained within the corporate limits of the City of Cornell without first obtaining a license to operate issued by the City Clerk.

(B) A license may only be issued for one (1) adult-oriented establishment located at a fixed and certain place. Any operator desiring to operate more than one adult-oriented establishment must have a license for each.

(C) Any license granted under this Ordinance shall not be transferable. All license applications shall be original or for renewal.

(D) No more than three (3) annual adult-oriented establishment licenses shall be issued within the City of Cornell at one (1) time, and no more than one (1) license shall be issued to any one (1) operator.

(4) **APPLICATION FOR LICENSE.**

(A) Any operator desiring to secure a license shall make application to the City Clerk. The application shall be filed in triplicate with, and dated by, the City Clerk. A copy of the application shall be distributed promptly to the Police Department and the applicant.

(B) The application for a license shall be on a form provided by the City Clerk. An applicant shall furnish the following information under oath:

(1) Name and address;

(2) Written proof that the individual is at least eighteen (18) years of age;

- (3) The exact nature of the adult-oriented use to be conducted and the address of the adult-oriented establishment to be operated by the applicant.
 - (4) If the applicant is a corporation, the date and state of incorporation, the name and address of the registered agent, the name and address of any shareholder(s) who individually or jointly owns or controls stock in said corporation, and all persons responsible for the management and operation of the adult-oriented establishment;
 - (5) If the applicant is a partnership, joint venture, limited liability company, or any other type of organization where two (2) or more persons have a financial interest, the application shall specify the name of the entity, the name and address of any person having a financial interest in the partnership, joint venture, limited liability company, or other type of organization, and all persons responsible for the management and operation of the adult-oriented establishment.
- (C) Upon receipt of an application, the City Clerk shall notify the Police Department and Fire Inspector of the license application. The Police Department and Fire Inspector shall submit written reports and recommendations to the Common Council. Within sixty (60) days of receiving an application for a license, the Common Council shall hold a public hearing on the application, preceded by a Class II Notice. The Common Council may take any testimony regarding the granting or denial of such license and shall either approve, modify, or reject the application, and the reasons for the action taken shall be specified in the written record of the Common Council.
- (D) Whenever an application is denied, the City Clerk shall advise the applicant in writing of the reasons for such action within ten (10) days of the Common Council action.
- (E) Failure or refusal of the application to give any information relevant to the investigation of the application, his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application, or his or her refusal to submit to, or cooperate with, any investigation required by this Ordinance shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial.

(5) STANDARDS FOR ISSUANCE OF LICENSE.

- (A)** To be eligible for a license to operate an adult-oriented establishment, an applicant must meet the following standards:
- (1)** If the applicant is an individual:
 - (a)** The applicant shall be at least eighteen (18) years of age;
 - (b)** The applicant shall not have been found to have previously violated this Ordinance or an ordinance of like terms in another jurisdiction or have been arrested or convicted for a violation for which licensure may be denied under Wis. Stat. ' 111.335 within five (5) years immediately preceding the date of the application.
 - (2)** If the applicant is a corporation:
 - (a)** All persons required to be named under Section 10.05(4)(B)(4) shall be at least eighteen (18) years of age.
 - (b)** No person required to be named under Section 10.05(4)(B)(4) shall have been found to have previously violated this Ordinance or an ordinance of like terms in another jurisdiction or have been arrested or convicted for a violation for which licensure may be denied under Wis. Stat. ' 111.335 within five (5) years immediately preceding the date of the application.
 - (3)** If the applicant is a partnership, joint venture, limited liability company, or any other type of organization where two (2) or more persons have a financial interest:
 - (a)** All persons required to be named under Section 10.05(4)(B)(5) shall be at least eighteen (18) years of age.
 - (b)** No person required to be named under Section 10.05(4)(B)(5) shall have been found to have previously violated this Ordinance or an ordinance of like terms in another jurisdiction or have been arrested or convicted for a violation

for which licensure may be denied under Wis. Stat. '111.335 within five (5) years immediately preceding the date of the application.

(6) **FEES.** A license application fee of \$500.00 shall be submitted with the application for a license. If the application is denied, one-half (1/2) of the fee shall be retained by the City as an application processing charge.

(7) **DISPLAY OF LICENSE.** The license shall be displayed in a conspicuous public place in the adult-oriented establishment. Licenses of employees or agents that work in said establishment that relate to this license or establishment shall be displayed with the adult-oriented establishment license.

(8) **RENEWAL OF LICENSE.**

(A) Every license issued pursuant to this Ordinance will terminate upon the expiration of one (1) year from the date of issuance or the following June 30, whichever is earlier, unless sooner revoked, and must be renewed before operation is allowed. Any operator desiring to renew a license shall make application to the City Clerk. The application for renewal must be filed ninety (90) days before the license expires. The renewal process shall be the same as the application process set forth in Section 10.05(4).

(B) A license renewal fee of \$500.00 shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of \$100.00 shall be assessed against an applicant who does not file for a renewal at least ninety (90) days before the license expires. If the application renewal is denied, one-half (1/2) of the total fees collected shall be retained by the City as an application processing charge.

(9) **SUSPENSION OR REVOCATION OF LICENSE.**

(A) The Common Council may revoke a license for any of the following reasons:

(1) Discovery that false or misleading information or data was given on any application or material acts were omitted from any application.

(2) The operator or any employee of the operator violated any provision of this Ordinance or any rule or regulation adopted by the Common Council pursuant to this Ordinance; provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of

ninety (90) days if the Common Council shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.

- (3) The operator becomes ineligible to obtain a license.
- (4) Any cost or fee required to be paid by this Ordinance is not paid.
- (B) The Common Council, before revoking or suspending any license or permit, shall give the operator at least ten (10) days written notice of the charges against the operator, and the opportunity for a public hearing before the Common Council.
- (C) The transfer of a license or any interest in a license shall automatically and immediately revoke the license.
- (D) Any operator whose license is revoked shall not be eligible to receive a license for two (2) years from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for six (6) months from the date of revocation of the license.

(10) PHYSICAL LAYOUT OF ADULT-ORIENTED ESTABLISHMENT. Any adult-oriented establishment having available for customers, patrons, or members a booth, room, or cubicle for a private viewing of any adult entertainment must comply with the following requirements:

- (A) Each booth, room, or cubicle shall be totally accessible to any and all public areas of the adult-oriented establishment and shall be unobstructed by any door, lock, or other control-type devices.
- (B) Every booth, room, or cubicle shall meet the following construction requirements:
 - (1) Each booth, room, or cubicle shall be separated from adjacent booths, rooms, cubicles, and non-public areas by a wall.
 - (2) Have at least one (1) side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying the booth, room, or cubicle.

- (3) All walls shall be solid and without any openings, extended from the floor to a height of not less than seven (7) feet and be light colored, non-absorbent, smooth textured, and easily cleanable.
 - (4) The floor must be light colored, non-absorbent, smooth textured, and easily cleanable.
 - (5) The lighting level of each booth, room, or cubicle, when not in use, shall be a minimum of ten (10) foot candles at all times, as measured from the floor.
- (C) Only one (1) individual shall occupy a booth, room, or cubicle at any time. No occupant shall engage in any type of sexual activity, cause any bodily discharge, or litter while in the booth, room, or cubicle. No individuals shall damage or deface any portion of the booth, room, or cubicle.

(11) RESPONSIBILITIES OF OPERATOR.

- (A) Every act or omission by an employee constituting a violation of this Ordinance shall be deemed an act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.
- (B) Any act or omission of any employee that constitutes a violation of this Ordinance shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended, or renewed.
- (C) No operator or employee of an adult-oriented establishment shall allow any minor to loiter nearby, frequent an adult-oriented establishment, or allow any minor to view adult entertainment as defined herein.
- (D) No operator or employee of an adult-oriented establishment shall allow any alcoholic beverages to be sold, served, possessed, or consumed in, at, or upon the adult-oriented establishment.
- (E) The operator shall maintain the premises in a clean and sanitary manner at all times.
- (F) The operator shall maintain at least ten (10) foot candles of light in the public portions of the establishment, including aisles, at all times.

- (G) The operator shall ensure compliance of the establishment and its patrons with the provisions of this Ordinance.
- (H) No operator shall suffer, allow, or permit any employee or entertainer to touch, and no employee or entertainer shall intentionally touch, the clothed or unclothed body of any patron or customer at the establishment premises, at any point below the neck and above the knee of the person, excluding that part of the person's arm below the wrist, commonly referred to as the hand. It shall further be unlawful for any patron or customer to touch any portion of the clothed or unclothed body of an operator, employee, or entertainer below the neck and above the knee, excluding the part of the operator's employee's or performer's arm below the wrist, commonly referred to as the hand.
- (I) This Ordinance shall be displayed on the exterior of every licensed premise with such Ordinance to be clearly visible to patrons entering the premises from the outside and shall be posted within eight (8) feet of any exterior entryway. The Ordinance shall also be placed in each booth, room, and cubicle and any enclosed location within an establishment licensed under this Ordinance. The Common Council may, by formal motion or resolution, authorize the posting of an abbreviated form of this Ordinance, so as to notify patrons, employees, and operators of the regulations stated in this Ordinance. The exterior signs shall be in block letters, written in black on a white background surface, and with type no less than one-half (1/2) inch in size. The interior signs shall be of a similar type and color with type no less than one-half (1/2) inch in size. Upon application of the operator, abbreviated versions of this Ordinance may be posted or other amendments may be approved, consistent with the intent of this Ordinance in keeping affected persons apprised of the requirements of this Ordinance.

(12) LOCATION.

- (A) No adult-oriented establishment shall be located:
 - (1) Within one thousand (1000) feet of an existing adult-oriented establishment.
 - (2) Within one thousand (1000) feet of any premises of a Licensee of a Class B Fermented Malt Beverage Retailer's License or Retail Class B Liquor License.
 - (3) Within one thousand (1000) feet of a youth center or sensitive area as defined by this Ordinance.

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(4) Upon any land except lands within the City which are zoned for adult-oriented establishments, either as a permitted or a conditional use of property.

(5) Within one thousand (1000) feet of an area zoned for residential land uses, or within one thousand feet (1000) of an existing residential dwelling, whether situated within or outside of the City limits.

(B) For purposes of this Ordinance, distances are to be measured in a straight line, without regard to intervening structures or objects, from the property line of the adult-oriented establishment to the nearest property line of another adult-oriented establishment, sensitive area, premises of a Licensee of a Class B Fermented Malt Beverage Retailer's License or Retail Class B Liquor License, lot or parcel zoned for residential land uses, or lot or parcel on which a residential dwelling is situated.

(13) **HOURS OF OPERATION.** No adult-oriented establishment shall be open between the hours of 12:00 a.m. and 10:00 a.m.

(14) **REGISTRATION OF ENTERTAINERS.**

(A) Any person desiring to provide entertainment in the City as an entertainer at any facility governed under this Ordinance, before engaging in any such entertainment, shall register with the City Clerk and pay a registration fee of \$50.00. The individual shall provide: a full name and permanent address, date and place of birth, information concerning height, weight, hair and eye color, gender, and race; two (2) forms of identification with at least one (1) form being photo identification confirming such information; and if requested, fingerprints, stage name, and booking agent, if any. Such registration shall be valid for one (1) year from date of registration.

(B) No operator shall permit entertainment by an individual subject to this Ordinance without prior registration as required in paragraph (A) above.

(15) **EXCLUSIONS.** All private schools and public schools as defined in Chapter 115, Wis. Stats., located within the City are exempt from obtaining a license hereunder when instructing pupils in professional nursing care or human growth and development as a part of curriculum. All licensed medical care or professional nursing care facilities located within the City, and agents of the City, county, state, and federal governments are exempt from obtaining a license hereunder when engaged in providing medical care or human growth and development education.

(16) PENALTIES AND PROSECUTION.

(A) In addition to all other remedies available to the City in equity and under law, any person who shall violate any provision of this Ordinance or who shall fail to obtain a license or permit as required hereunder, or who shall operate after his or her license is suspended or revoked, shall be subject to penalty, on a per diem or per occurrence basis as follows:

(1) Any person who operates an adult-oriented establishment and fails to obtain a license or permit as required under this Ordinance, shall be subject to an initial fine of \$500.00, together with the costs of prosecution, and additional fines of \$500.00 per day, together with the costs of prosecution, for each day that the person continues to operate an adult-oriented establishment without a license or permit in violation of this Ordinance.

(2) Any person who operates an adult-oriented establishment after his or her license has been suspended or revoked shall be subject to an initial fine of \$500.00, together with the costs of prosecution, and additional fines of \$500.00 per day, together with the costs of prosecution, for each day the person continues to operate an adult-oriented establishment in violation of this Ordinance.

(3) Any person with a valid license for an adult-oriented establishment who violates any provision of this Ordinance shall be subject to a fine of \$500.00, together with the costs of prosecution, per day for each day the person is in violation of this Ordinance.

(17) SEVERABILITY. The several sections of this Ordinance are declared to be severable. If any section, provision, phrase, word or any portion of this Ordinance shall be declared by a decision of a court of competent jurisdiction to be invalid, unlawful, or unenforceable, such decision shall apply only as to the specific section, word, phrase, provision, or portion thereof directly specified in the decision, and not affect the validity of all other provisions, words, sections, or portions thereof of the Ordinance which shall remain in full force and effect.

10.06

FIREWORKS PERMIT ORDINANCE

(1) **COVERAGE.** Every person, pursuant to Sections 66.0415 and 167.10, (1993-1994) Wisconsin Statutes, and this ordinance in the City of Cornell who possesses or uses fireworks in the City shall seek and obtain a Fireworks Permit from the City, except if exempt under this ordinance. The permit fee shall be established by the Common Council at not less than Five dollars (\$5.00) nor more than Twenty Dollars (\$20.00) and shall be set forth on Appendix E. The permit shall be issued for the date established for the permitted use. The permit shall be issued by the Mayor and a copy of the issued permit shall be given to the City Police Department pursuant to Section 167.10(3)(g), (1993-1994) Wisconsin Statutes, at least two (2) days before the date of authorized use in the City of Cornell.

The permit fee at this time shall be \$10.00.

(2) **APPLICATION/PERMIT.** The application shall be made to the Mayor and the Mayor, in the exercise of his/her reasonable discretion shall issue or not issue the

fireworks permit. The application shall include:

- (A) The name of the applicant.
- (B) The address of the applicant.
- (C) The residential and business telephone number of the applicant, if any.
- (D) The age of the applicant.
- (E) The date requested for purchase of fireworks and the date requested for the fireworks use.
- (F) The time and location for the required use.
- (G) The classification of the applicant as noted in Section 167.10(3)(c), (1993-1994) Wisconsin Statutes.
- (H) The proposed location for the storage of the fireworks in the City.

(3) **EXEMPTIONS.** Certain persons are exempt from this permit requirement in the City. The permit requirement does not apply to:

- (A) The City of Cornell, but City fire and law enforcement officials shall be notified of the proposed use of fireworks at least two (2) days in advance.
- (B) The possession of or use of explosives in accordance with rules or general orders of the State Department of Industry, Labor and Human Relations.
- (C) The disposal of hazardous substances in accordance with rules adopted by the State Department of Natural Resources.
- (D) The possession of or use of explosives or combustible materials in any manufacturing process.
- (E) The possession of or use of explosives or combustible materials in connection with classes conducted by educational institutions.
- (F) The possession of or use of explosives in possession of a license or permit under 18 USC 841 to 848 if the possession of the fireworks is authorized

under the license or permit.

(4) ORDINANCE/PERMIT

(A) The person subject to this ordinance shall comply with Section 167.10, (1993-1994) Wisconsin Statutes, and this ordinance.

(B) The City Administrator shall provide copies of this ordinance at no cost to any applicant requesting copies under this ordinance.

(C) The applicant and any other person subject to this ordinance shall comply as follows:

(1) No person shall be issued or reissued a fireworks permit in the City until the appropriate fee has been paid to the City Administrator.

(2) No person shall be issued or reissued a fireworks permit in the City who has failed to properly and fully complete and submit to the City Administrator the application form as developed and provided by the City.

10.07 ALCOHOL BEVERAGES ORDINANCE

(1) STATE STATUTES ADOPTED. The provisions of Chapter 125, Wisconsin Statutes, 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 such statutes, but exclusive of any statutory penalty of imprisonment (no penalty of imprisonment may be imposed for ordinance violations; forfeitures only may be imposed) are adopted and made a part of this ordinance by reference. A violation of any of such provisions shall constitute a violation of this section.

(2) LICENSES. PERMITS. AUTHORIZATION REQUIRED

(A) When Required. No person except as provided by Section 125.06, Wisconsin Statutes, shall within the City of Cornell, serve, sell, manufacture, rectify, brew, or engage in any other activity for which this ordinance or Chapter 125, Wisconsin Statutes, requires a license, permit or other authorization without holding the appropriate license, permit or other authorization as provided in this ordinance. (Reference: Section 125.04(1), Wis. Stats.)

(B) Separate license Required for Each Place of Sale. Except for licensed public warehouse, a license shall be required for each location or premises, which is in direct connection or communication to each other where intoxicating liquor or fermented malt beverages are stored, sold or offered for sale. (Reference: Section 125.04(9), Wis. Stats.)

(C) Classes of Licenses and Fees. The following classes and denominations of licenses may be issued by the City Administrator under 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 alcoholic beverages as provided in Sections 125.17, 125.25, 125.26, 125.28, 125.51, and 125.57, Wisconsin Statutes. Except as otherwise provided in this ordinance, the full license fee shall be charged for the whole or fraction of any year. Fees shall be noted in Appendix E.

(1) Class "A" Fermented Malt Beverage Retailer's License. \$50.00 per year. (Reference: Sec. 125.25, Wis. Stats.)

(2) Class "B" Fermented Malt Beverage Retailer's License. \$100.00 per year. (Reference: Sec. 125.26, Wis. Stats.)

(a) Six Month. A license may be issued at any time for six (6) months in any calendar year for which three-fourths (3/4ths) of the applicable license fee shall be paid; but such license shall not be renewable during the calendar year in which issued.

(b) Picnic (Temporary). \$10.00. (Reference: Sec. 125.25(1) and (6), Wis. Stats.)

(c) The City authorizes the City Administrator to issue temporary Class "B" licenses under Section 125.26(6), Wisconsin Statutes.

(3) Wholesaler's Fermented Malt Beverage License. \$15.00 per year or fraction thereof. (Reference: Sec. 125.28, Wis. Stats.)

(4) Retail "Class A" Liquor License. \$250.00 per year. (Reference: Sec. 125.15(2), Wis. Stats.)

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

(5) Retail "Class B" Liquor License. \$275.00 per year. (A retail Class "B" liquor license shall permit its holder to sell liquor in original packages or containers in multiples not to exceed one gallon at any one time to be consumed off the licensed premises.) Wine may be sold in original packages or otherwise in any quantity to be consumed off the premises. (Reference: Sec. 125.51(3), Wis. Stats.)

(a) License may be issued after July 1 in any license year. The license 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 six (6) months may be issued at any time. The fee for the license shall be fifty percent (50%) of the annual license fee. The license may not be renewed during the calendar year in which issued.

(c) Clubs as defined in Section 125.02(4), Wisconsin Statutes, shall be subject to a \$50.00 per year fee for a restricted license and a fee of \$75.00 if nonrestricted (sales to the general public).

(6) Retail "Class C" Wine Licenses. \$100.00 per year.
(Reference: Sec. 125.51 (3m), Wis. Stats.)

(7) Pharmacists and Medicinal Alcohol Permit. \$10.00 per year.
(Reference: Sec. 125.57, and Sec. 125.61 Wis. Stats.)

(8) Operators. \$15.00 per year. (Reference: Sec. 125.17, Wis. Stats.)

a. Operator's licenses may be granted to individuals for the purposes of complying with Sections 125.32(2) and 125.68(2), Wisconsin Statutes.

b. Operator's licenses may be issued or renewed by the City Administrator only upon written application on forms provided by the City Administrator. The City Administrator shall renew, issue, or refuse to issue or renew operator's licenses after verification of the information within the application. The City Administrator shall refuse to issue or renew only in accordance with Section 125.12, Wisconsin Statutes. Upon denial of an application for an operator's license, the City Administrator shall notify the applicant in writing of the denial and state the reasons for the decision. The applicant may appeal the denial to the Common Council, which shall make a determination whether to approve or deny the license application in accordance with Section 125.12, Wisconsin Statutes.

c. Operator's licenses shall be valid for one year and shall expire on June 30th of each year.

d. (A) The provisions of Section 125.17(6) of the Wisconsin Statutes are hereby adopted. Operator's licenses will not be issued to nonexempt applicants who have not successfully completed the Responsible Beverage Server training course offered by a vocational, technical, and adult education district which conforms to curriculum guidelines specified by the Board of Vocational, Technical, and Adult Education. Such applicant must provide a certificate of completion of said course unless the applicant meets one of the following exemptions set forth in the statute:

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

If the individual applying for the operator's license has not completed the course by the time of application, the City Administrator may issue a provisional operator's license to such person who is enrolled in a training course as prescribed herein. The Council shall revoke that license if the applicant fails to successfully complete the course in which he or she enrolls.

d. (B) This ordinance shall not be interpreted as requiring additional regulations not permitted pursuant to 125.17(6)(C).

e. **Provisional Operator's License:** \$5.00 Provisional operator's licenses under 125.17(5) may be issued by the City Administrator who is designated as the municipal officer with authority to issue provisional operator's licenses. Said licenses may be issued upon payment of a fee of \$5.00 upon the following conditions:

1. A provisional operator's license may be issued only to a person who has applied for an operator's license and may not be issued to any person who has been denied a license by the City Administrator or Common Council.

2. A provisional operator's license expires 60 days after its issuance or when an operator's license is issued or denied to the holder, whichever is sooner.

3. The City Administrator may revoke the provisional operator's license if the holder of the license is discovered to have made a false statement on the application.

f. The City Administrator may issue temporary operator's licenses upon written application pursuant to Section 125.17(4) of the Wisconsin Statutes, without a fee, provided that:

1. A temporary license may be issued only to operators employed by or donating their services to non-profit corporations;

2. No person may hold more than one license of this kind per year; and,

3. The license is valid for any period from one day to fourteen (14) days and the period for which it is valid shall be stated on the license.

(9) **Provisional Retail Licenses.** Provisional retail licenses under Section 125.185 may be issued by the City Administrator who is designated as the municipal officer with authority to issue provisional retail licenses. Said licenses may be issued upon payment of a fee of \$15.00 upon the following conditions:

a. A provisional retail license may be issued only to a person who has applied for a Class "A", Class "B", "Class A", "Class B" or "Class C" license and authorizes only the activities that the type of retail license applied for authorizes.

b. A provisional retail license expires 60 days after its issuance or when the Class "A", Class "B", "Class A", "Class B" or "Class C" license is issued to the holder whichever is sooner. The City Administrator may revoke the provisional retail license if he or she discovers that the holder of the license made a false statement on the application. If the provisional retail license is revoked, the City Administrator shall mail or have a written notice delivered to the license holder notifying the person of the action taken, the reasons for such action, and the right to have a license review hearing before the Common Council upon the applicants written request. The request for hearings and procedures shall be as set forth in Section 125.12.

c. Notwithstanding the foregoing provisions, the City Administrator may not issue a provisional "Class B" license if the municipality's quota under Section 125.51 (4), prohibits the municipality from issuing a "Class B" license.

d. No person may hold more than 1 provisional retail license for each type of license applied for by the holder per year.

e. All standards under which retail licenses are issued under these ordinances and the State Statutes for the regular ordinance shall apply to provisional retail licenses.

(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 State Department of Revenue, or governing body for operators' licenses and filed with the City Administrator. 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. Applications shall be signed and sworn to by the applicant as provided in Section 887.01 Wisconsin Statutes. The City Administrator is authorized to take statements under oath.

(3) All applicants for alcoholic beverage licenses of any kind, including bartender's licenses, "Class A" liquor licenses, "Class B" liquor licenses and Class "B" fermented malt beverage licenses, issued pursuant to Section 125 of the Wisconsin Statutes and of these ordinances shall appear in person before the Common Council at the time of license application to present the application and answer questions from Common Council members as to the application and conduct of the permitted activity. Personal appearance shall be required for renewal applications as well as original applications except for renewal application of bartenders.

(E) **License Restrictions**

(1) **Statutory Requirements.** Licenses shall be issued only to persons eligible therefore under Sections 125.04 and 125.33(3)(b), Wisconsin Statutes.

(2) **Location**

(a) No retail "Class A" or "Class B" license shall be issued for premises the main entrance of which is less than three hundred feet (300') 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 highway from the closest point of the main entrance of such school, church or hospital to the main entrance to the premises covered by the license.

(b) This paragraph 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 three hundred feet (300') thereof by any school building, hospital building, 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 ordinance during one (1) year prior to such application. A conviction of a member of a partnership or the partnership itself shall make the partnership or any member thereof ineligible for such license for one (1) year.

(4) **Health and Sanitation Requirements.** No retail Class "B" or "Class B" or "Class C" license shall be issued for any premise 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 City.

(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 Section 125.51(4), Wisconsin Statutes.

(6) **Corporations.** No license shall be granted to any corporation in which more than fifty percent (50%) of the voting stock interest, legal interest or beneficial interest is held by any person or persons not eligible for a license under this section.

(7) Age Requirement. No license hereunder shall be granted to any underage person. For purposes of this section, "underage person" shall be defined as an individual who has not attained the age of 21 years. For purposes of this section, "underage person" as it relates to issuance of **Operator's** licenses shall be defined as individuals who have not attained the age of 18 years as per Wisconsin Statute 125.04(5)(d)2.

(8) Effect of Revocation of License. Whenever any license has been revoked, at least six (6) months from the time of such revocation shall elapse before another license shall be granted for the same premises and twelve (12) months shall elapse before another license shall be granted to the person whose license was revoked.

(9) 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 alcoholic beverages in any dwelling, house, flat or residential apartment.

(10) Inspection of Application and Premises. The City Administrator shall notify the City Police Department, and Common Council of all license and permit applications, and these officials may inspect or cause to be inspected such applications and premises to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto and the applicant's fitness for the trust to be imposed. If an inspection is conducted, these officials shall furnish to the Common Council in writing the information derived from such investigation. No license or permit provided for in this section shall be issued without the approval of the Common Council, and no license shall be renewed without a reinspection of the premises and report as herein required.

(11) Reserved for future use.

(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 Administrator shall affix his or her affidavit as required by Section 125.04(4), Wisconsin Statutes.

(G) Transfer of Licenses

(1) As to Person. No license shall be transferable as to licensee except as provided by Section 125.04(12), Wisconsin Statutes.

(2) As to Place. Licenses issued pursuant to this section may be transferred as provided in Section 125.04(12), Wisconsin Statutes. 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 Section 125.04(10), Wisconsin Statutes. No person shall post such license or permit any other person to post it upon premises other than those mentioned in the application, or knowingly deface or destroy such license.

(I) Regulation of Licensed Premises and Licenses

(1) 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. Dice, slot machines, or any device of chance are prohibited and shall not be kept upon the premises.

(2) Employment of Underage Persons. No retail "Class B" or Class "B" licensee shall employ any underage person to serve, sell, dispense or give away any alcoholic beverage, except hotels, restaurants, combination grocery stores-taverns, where not to exceed twenty percent (20%) of the gross revenues are derived from the sale of alcoholic beverages, except as provided in Section 125.32(2) and 125.68(2) (Operator's License).

(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) Unobstructed View Required. At least one window or door of any licensed premises shall be of clear glass and the premises shall be so arranged as to furnish a clear view of the entire premises from the sidewalk. There shall be no partition, box stalls, screens, curtains, plants, advertising placed or other devices which shall obstruct the view of said premises from the general observation of persons passing, provided, booths not higher than 48 inches from the floor shall not be construed as in conflict with the foregoing provisions, and provided further, Retail Class "B" licenses shall permit the holder to serve such beverages in a separate room at banquets and dinners.

(6) Dancing and Entertainment Allowed. Dancing and entertainment including music, singing, and related forms of musical entertainment shall be permitted upon premises licensed under this ordinance, during such hours and under such conditions as the Common Council may determine.

(7) No Sale on Credit or Trade In. No retail Class "A", "Class A", Class 'B', "Class B", or "Class C" licensee shall sell or offer to sell fermented malt beverages or intoxicating liquor to any person on credit excepting credit extended by a hotel to a resident guest or a club to a bona fide member, and by grocers and druggists who maintain a credit system in connection with other purchases as well. No licensee shall sell fermented malt beverages or intoxicating liquor to any person on a pass book or store order or receive from any person any goods, wares, merchandise, or other articles in exchange for fermented malt beverages or intoxicating liquor.

(8) Search of Licensed Premises. It shall be a condition of any license issued hereunder that the licensed premises may be entered and inspected at any reasonable hour by any police officer without any warrant, and the application for a license hereunder shall be deemed a consent to this provision.

(9) Possession - School

a. Except as provided by subparagraph (b) no person may possess or consume fermented malt beverages or intoxicating beverages:

1. On school premises.
2. In a motor vehicle, if a pupil attending the school is in the motor vehicle, or
3. While participating in a school sponsored activity.

b. Fermented malt beverages or intoxicating beverages may be possessed or consumed on school premises, in a motor vehicle or by a participant in a school sponsored activity if specifically permitted in writing by the school administration consistent with applicable laws and ordinances.

c. A person who violates this subsection is subject to a forfeiture of not more than \$200, except that State Stats. 125.07(4)(c) and (d) and 938.344 provide the penalties applicable to underage persons.

d. The terms motor vehicle, school, school administrator and school premises shall be such as set forth in Chapter 125, Wis. Stats.

(J) Closing Hours. No premises for which an alcoholic beverage license has been issued shall remain open for the sale of alcoholic beverage:

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

(2) If a retail Class "A" (fermented malt beverage) license, between 12 midnight and 6 a.m. as provided by Section 125.32(3)(b), Wisconsin Statutes.

(3) If a retail "Class A" (intoxicating liquor) license, between 9 p.m. and 6 a.m. as provided by Section 126.68(4)(b), Wisconsin Statutes.

(4) If a retail Class "B" (fermented malt beverage) or "Class B" (intoxicating liquor) or "Class C" (retail wine license) license, between 2 a.m. and 6 a.m. On Saturday and Sunday the closing hours shall be between 2:30 a.m. and 6 a.m. On January 1, premises operating under a Class "B" or "Class B" license or permit are not required to close. No package, container, or bottle sales may be made between 12 midnight and 6 a.m. (Reference: Sees. 125.68(4)(c), 125.32(3)(am), Wis. Stats.)

(5) Hotels and restaurants whose principal business is in the furnishing of food and lodging to patrons, and 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.

(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 such license may be instituted in the manner and under the procedure established by Section 125.12, Wisconsin Statutes, and the provisions therein relating to granting a new license shall likewise be applicable.

(2) **Automatic Revocation.** Any license issued under the provisions of this section shall stand revoked without further proceedings upon the conviction of a licensee or employee, agent or representative thereof for a second offense under this section or for a violation of Chapters 125 or 139, Wisconsin Statutes, or any other State or Federal liquor or fermented malt beverage laws.

(3) **Revocation for Non-Use.** Any license or permit issued hereunder may be revoked if not used within thirty (30) days after issuance or if its use is discontinued for thirty (30) days or more.

(4) **Effect of Revocation.** See Section 10.07(2)(E)(8) of this ordinance.

(L) **Non-renewal 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 non-renewal and a copy of any proposed motion for non-renewal and shall have an opportunity to be heard before the Common Council.

(M) **Violations by Agents or Employees.** A violation of this ordinance by an authorized agent or employee of a licensee shall constitute a violation by the licensee.

(N) **Penalties.** The penalty provisions of Chapter 125, Wisconsin Statutes, are hereby adopted, exclusive of any term of imprisonment. If a specific fine or range of fines is set forth in the Wisconsin Statutes for a violation, that specific amount or range shall be the amount or range of the forfeiture for violation of the municipal ordinance counterpart of the Statutes. If a specific penalty is not provided, a forfeiture of not more than Five Hundred Dollars (\$500.00) may be imposed and the Court may suspend or revoke any license or permit issued to the person.

(O) The Uniform State Deposit Schedule (as amended from time to time and adopted by the Wisconsin Judicial Council) is hereby adopted as the deposit

schedule for the City of Cornell with respect to Section 10.07.

10.08 **JUNKYARD PERMIT ORDINANCE**

(1) COVERAGE. Every person, pursuant to Sections 66.049, 84.31, and 175.25, (1993-1994) Wisconsin Statutes, and this ordinance, in the City of Cornell who shall accumulate or store junked automobiles or parts thereof within five hundred (500) feet of the center line of any City road or street in the City of Cornell shall seek and obtain a Junkyard Permit from the City of Cornell. The fee for such permit shall be established by the Common Council at not less than Twenty-five Dollars (\$25.00) per permit. The fees shall be established annually by the Common Council prior to July 1. Fees are as noted in Appendix E. The permit shall be issued for July 1 of the first year to June 30 of the next year. The permit shall be issued by the City Administrator prior to any person accumulating or storing such auto materials in the City.

(2) APPLICATION/PERMIT. The application and permit shall designate the premises to be permitted. The permit may be amended without charge if the permittee changes premises in the City of Cornell. However, the permit is not transferable from one person to another. The application and permit shall contain the following:

- (A)** The name of the applicant.
- (B)** The address of the commercial premises.
- (C)** The commercial premises telephone number, if any, and the residential telephone number of the applicant, if any.
- (D)** The age of the applicant.
- (E)** A description of the commercial premises.
- (F)** The quantity and manner of storing such junk.
- (G)** The projected number of years for accumulation, storage and removal of these vehicles.

(3) EXEMPTIONS. Certain persons will be exempt from this permit requirement if they meet the requirements of Section 175.25(4), (1993-1994)

Wisconsin Statutes. Moreover, any person with less than two (2) unlicensed/unshedded automobiles stored on premises shall be exempt from this ordinance.

(4) ORDINANCE/PERMIT

(A) The persons subject to this ordinance shall comply with Sections 84.31 and 175.25, (1993-1994) Wisconsin Statutes, and this ordinance.

(B) The City Administrator shall provide copies of this ordinance at no cost to any applicant requesting copies under this ordinance.

(C) The applicant and any other person subject to this ordinance shall comply as follows:

(1) No person shall be issued or reissued a Junkyard Permit in the City of Cornell until the appropriate fee has been paid to the City Administrator.

(2) No person shall be issued or reissued a Junkyard Permit in the City who has failed to properly and fully complete and submit to the City Administrator the application form as developed and provided by the City.

(3) No person shall be issued or reissued a Junkyard Permit in the City of Cornell if the applicant for the junkyard permit:

(a) Fails to install and maintain fences as determined by the Common Council.

(b) Fails to install and maintain adequate fire safety equipment as determined by the Fire Inspector.

(c) Fails to install, provide, and maintain adequate and necessary physical structures and equipment as determined by the Common Council and fails to comply with conditions, rules and safeguards as determined by the Common Council to prevent public nuisances and to protect the public health and safety to persons residing near the junkyard premises or persons entering the junkyard premises including public nuisances associated with noise, dust, odors, fires, explosions, water pollution, air pollution and erosion.

(d) Fails to comply with the City of Cornell Zoning Ordinance as determined by the Common Council.

(e) Fails to prevent open fires or the burning of solid waste or hazardous waste at the junkyard premises. This includes the burning of automobiles and parts thereof.

(f) Fails to install, provide and maintain adequate landscaping surrounding the junkyard premises as determined by the Common Council.

(g) Fails to provide and maintain adequate security and operational personnel to prevent trespassing onto the junkyard premises.

(h) Fails to install and maintain adequate physical structures and operational controls to prevent trespassing, littering and to prevent private nuisances on private and public lands adjacent to the junkyard location.

(i) Fails to allow physical access to the junkyard location by the Common Council or designee for inspection purposes upon twenty-four (24) hours notice to the applicant or permittee.

(5) OTHER PROVISIONS

(List and Describe)

§ 10.09 Direct Sellers, Transient Merchants and Solicitors

- (1) **Registration required.** It shall be unlawful for any direct seller, transient merchant or solicitor to engage in sales within the City of Cornell without being registered for that purpose as provided in this chapter.
- (2) **Sales prohibited on public streets and public parking lots.** Except as provided in this chapter for community events approved by the Common Council, no direct or transient sales or solicitation shall be allowed on any public street or public parking lot.
- (3) **Sales in City parks.**
 - a. Direct sellers wishing to sell in City parks shall be subject to this chapter and to the requirements of any other applicable City code sections.
 - b. Transient sellers and solicitors are prohibited in City parks, except as approved in conjunction with a special event.
- (4) **Definitions.**

For purposes of this section:

- a. “Applicant” means each individual applying for registration and licensing as a direct seller, transient merchant or solicitor.
- b. “Charitable Organization” means any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation for whom or which there is provided proof of tax-exempt status pursuant to Section 501(c)(3) or (4) of the United States Internal Revenue Code.
- c. “Clerk” means the Clerk of the City of Cornell.
- d. “Direct Seller” means any person who, individually or for a partnership, association or corporation, sells goods or services or takes sales orders for later delivery of goods or services at any location other than the permanent business place or residence of the individual, partnership, association or corporation. The sale of goods and services includes donations requested or required by the direct seller for the retention of goods or services by a donor or prospective customer.
- e. “Goods” includes personal property of any kind and shall include merchandise, materials, and goods provided incidental to services offered or sold. The sale of

goods includes donations required by the seller for the retention of goods or services by a donor or prospective customer.

- f. "Permanent Merchant" means a direct seller or one representing a merchant who, for at least six months prior to the submission of an application pursuant to this chapter, has continuously operated an established place of business in this City or has continuously resided in this City and now does business from his/her residence.
- g. "Registrant" means each individual registered by the Clerk.
- h. "Solicitor" means any individual who, for him/herself or any other person, organization, society, association or corporation, personally solicits money, property or financial assistance of any kind from persons other than members of such organization, society, association or corporation.
- i. "Transient Merchant" means any individual who engages in the retail sale of goods 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 chapter, sale of merchandise includes a sale in which the personal services rendered upon or in connection with the merchandise constitutes the greatest part of value for the price received, but does not include a farm auction sale 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.

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

- a. Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes.
- b. Any person selling goods at wholesale to dealers in such goods.
- c. Any person, farmer or gardener selling agricultural products of the farm, orchard or garden occupied or cultivated by such person.
- d. Any permanent merchant or employee thereof who takes orders away from the established place of business for goods regularly offered for sale by such merchant within this City and who delivers such goods in his regular course of business.
- e. Any person who has an established place of business where the goods being sold are offered for sale on a regular basis and in which the buyer has initiated contact with and specifically requested a home visit by the person.

- f. Any person who has had, or who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with a prospective customer.
- g. Any person holding a sale required by statute or order of any court and any person conducting a bona fide auction sale pursuant to law.
- h. Any employee, officer, or agent of a charitable organization who engages in direct sales or solicitations for or on behalf of said organization, provided that there is submitted to the Clerk proof that such charitable organization is registered under Wis. Stats. § 440.41. Any charitable organization engaging in the sale of merchandise and not registered under § 440.41 or which is exempt from that statute's registration requirements shall be required to register under this chapter.
- i. Any person selling any goods, services or merchandise at any community event or celebration approved by the Common Council, provided the person has been approved by the permittee for the event. The permittee shall provide the City Clerk with a list of approved sellers, including name, address, business name and items to be sold, no later than 24 hours prior to the event.
- j. Any veteran who holds a special state license pursuant to Wis. Stats. § 440.51 shall be exempt from the provisions of this section, provided that such veteran provides the Clerk with the following information. The Clerk shall then forward such information to the Chief of Police for investigation.
 - i. The veteran's name and permanent address.
 - ii. The nature of the sales or solicitations.
 - iii. Proposed dates and times of sales or solicitations.

(6) Registration procedure.

- a. Applicants for registration must complete and return to the Clerk, *at least fifteen (15) days* prior to issuance of the registration, a registration form furnished by the Clerk which shall require the following information:
 - i. Name, permanent address, telephone number and temporary address, if any, of each transient merchant, direct seller or solicitor.
 - ii. Name, address and telephone number of the person, firm, association or corporation that the direct seller, transient merchant, or solicitor represents or is employed by or whose merchandise is being sold.

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- iii. A physical description of each person or employee to be engaged in sale or solicitation activities, including age, height, weight and color of hair and eyes.
 - iv. Temporary address and telephone number from which sales or solicitations will be conducted, if any.
 - v. Nature of sales or solicitations to be conducted and a brief description of the goods and/or services offered.
 - vi. Proposed dates and times of sales or solicitations.
 - vii. Proposed methods of delivery of goods, if applicable.
 - viii. Make, model and license number of any vehicle to be used by the applicant in the conduct of sales or solicitations.
 - ix. Last three cities, villages or towns where the applicant conducted similar sales or solicitations, if applicable.
 - x. For transient merchants, an address and phone number where the applicant can be contacted for at least seven days after leaving this City.
 - xi. Statement as to whether the applicant has been convicted of any crime or ordinance violation related to the applicant's sales or solicitation or other transient merchant activities within the last five years, the nature of the offense and the place of conviction.
- b. Applicants shall present the following items to the Clerk for examination:
- i. A driver's license or some other proof of identity as may be reasonably required.
 - ii. Current sellers permit issued by the Wisconsin Department of Revenue.
 - iii. Proof of liability insurance satisfactory to the City if the sales activity occurs on City-owned property.
 - iv. If the sales activity occurs on private property such as a stand in a private parking lot or other private property, the applicant shall provide written permission from the property owner for the applicant to conduct sales as described in the application.

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- v. Wisconsin 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, if applicable.
- vi. Health inspection certifications, if applicable.
- vii. No registration shall be processed until the application and investigation fees have been paid to the Clerk. Fees for licenses under this chapter shall be established by the Common Council and may be adjusted from time to time by the Common Council. The current fee schedule shall be kept on file in the office of the City Clerk.
- viii. No registration shall be processed until the applicant signs 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, service performed or solicitation activities of the applicant in the event that the applicant cannot, after reasonable effort, be served personally.

(7) Bond.

- a. *Every applicant who intends to take sales orders and down payments for the later delivery of goods and services and is not a resident of Chippewa County, Wisconsin, or who is such a resident and represents a business or organization whose principal place of business is located outside the state of Wisconsin, shall file with the Clerk a surety bond for a term of one year from the date of issuance of license, running to the City, in the amount of \$2,500.00 with surety acceptable to the Clerk, conditioned that the applicant comply with all applicable City ordinances and Wisconsin statutes regulating peddlers, canvassers, solicitors, and transient merchants. Such bond shall guarantee to any citizen of the City that all money paid as a down payment will be accounted for and applied according to the representations of the seller and that any property purchased will be delivered according to the representations of the seller. Action on such bond may be brought by the person aggrieved and for whose benefit, among others, the bond is given. The surety may, pursuant to a court order, pay the face amount of the bond to the clerk of court in which suit is commenced and be relieved of all further liability.*

(8) Investigation; denial of registration.

- a. Upon receipt of a completed registration application, the Clerk shall immediately refer it to the Chief of Police to conduct an investigation. To the extent possible,

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within five working days the Chief of Police shall return the application to the Clerk with his endorsement approving or disapproving the application.

- b. The Clerk shall refuse to register the applicant if the investigation shows any of the following:
 - i. The application contains any material omission or materially inaccurate statement.
 - ii. Complaints of a material nature have been received against the applicant by authorities in any of the last three cities, villages or towns in which the applicant conducted similar business.
 - iii. The applicant was convicted of a crime, statutory violation or ordinance violation within the last five years, the nature of which is directly related to the applicant's fitness to engage in direct selling or solicitation.
 - iv. The applicant failed to comply with any applicable provision of this chapter.
- c. Registration shall be denied if the applicant is delinquent in payment of any taxes, assessments, forfeitures for violations of City ordinances, or other claims owed to the City.
- d. Appeal. Any person denied application for registration may appeal such action by filing with the Common Council, within 14 days after written notice of the denial, a written statement requesting a hearing and setting forth the grounds for the appeal. The Common Council shall set a time and place for the hearing. Written notice of the time and place of the hearing shall be given to the applicant at least 72 hours prior to the time set for the hearing.

(9) Registration.

- a. Upon compliance with the foregoing requirements, investigation, and payment of the fees as set forth herein, the Clerk shall register the applicant as a direct seller, transient merchant or solicitor. The applicant shall sign and date the application form, acknowledging receipt of a copy of this chapter of the Cornell Municipal Code.
- b. Such registration shall contain the signature of the Clerk, the name and address of the direct seller, transient merchant or solicitor, the type of goods or services being sold or the nature of the solicitation, and the license number of any vehicles used for sales or solicitation.

- c. Registrants shall exhibit their registration:
 - i. On any stand, cart, or other similar device used for sales; and
 - ii. At each residence; and
 - iii. To any police officer who requests it.
 - iv. *All registration shall expire on December 31. There shall be no prorating of the registration and investigation fee.*

(10) **Prohibited acts; disclosure requirements.**

- a. Prohibited practices.
 - i. A direct seller, transient merchant or solicitor shall be prohibited from:
 - 1. Calling at any dwelling or other place between the hours of 8:00 p.m. and 9:00 a.m., except by appointment.
 - 2. Calling at any dwelling or other place where a sign is displayed bearing the word "No Peddlers," "No Solicitors" or words of similar meaning.
 - 3. Calling at the rear door of any dwelling place.
 - ii. A direct seller, transient merchant or solicitor shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any goods or services offered for sale, the purpose of his/her visit, his/her identity or the identity of the organization he/she represents. A direct seller or transient merchant representing a charitable or religious organization shall specifically disclose what portion of the sale price of goods being offered will actually be used for the charitable or religious purpose for which the individual is soliciting. The portion shall be expressed as a percentage of the sales price of the goods or services.
 - iii. No direct seller, transient merchant or solicitor shall impede the free use of sidewalks and streets by pedestrians and vehicles. No sales shall occur on public sidewalks or streets except as approved by Common Council in conjunction with community events. Direct or transient sellers for sales in parks are required to register under this section and any other applicable sections of the Cornell City Code.

- iv. No direct seller, transient merchant or solicitor shall make any loud noises or use any sound-amplifying device to attract customers or donors if the noise produced is capable of being plainly heard outside a one-hundred-foot radius of the source.
 - v. No direct seller, transient merchant or solicitor shall allow rubbish or litter to accumulate in or around the area in which he/she is conducting business or making sales or solicitations.
- b. Disclosure requirements.
- i. After the initial greeting and before any other statement is made to a prospective customer or donor, a direct seller, transient merchant or solicitor shall expressly disclose his/her name, the name of the company or organization he/she is affiliated with, if any, and identify the goods or services he/she offers to sell and shall show the registration issued by the City to the prospective customer or donor.
 - ii. If the direct seller, transient merchant or solicitor takes a sales order for the later delivery of goods, he/she shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance, whether full, partial or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date and whether a guaranty or warranty is provided and, if so, the terms thereof.
 - iii. If any sale of goods is made by a direct seller, transient merchant, or solicitor or any offer for the later delivery of merchandise is taken by the seller, the buyer shall have the right to cancel said transaction if it involves the extension of credit or is a cash transaction of more than \$25.00 in accordance with the procedure set forth in Wis. Stats. ch. 423. The seller shall give the buyer two copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of ch. 423, Wis. Stats.
- (11) **Record of violations.** The Chief of Police shall report to the Clerk all convictions for violations of this chapter, and the Clerk shall note any such violation on the record of the registrant convicted. The Clerk shall note any complaint or report of an alleged violation made by a resident of this City or a police officer.
- (12) **Revocation of registration permit.**
- a. Registration may be revoked by the Common Council after notice and hearing under the following circumstances:

- i. The registrant made any material omission or materially inaccurate statement in the application for registration;
 - ii. The registrant made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in transient or direct sales or solicitation;
 - iii. The registrant violates any provision of Cornell City Code related to sales;
 - iv. The registrant was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling or solicitations;
 - v. Any other conduct by the registrant which the Council finds to jeopardize the public health, safety, and welfare.
- b. Written notice of the hearing shall be served personally on the registrant at least 72 hours prior to the time set for the hearing. Such notice shall contain the time and place of hearing and a statement of the acts or omissions upon which the hearing will be based.
- (13) **Violations and penalties.** In addition to any other remedy provided by law, any person who shall violate any provision of this chapter shall be subject to a penalty as follows:
- a. First offense. Any person who shall violate this chapter shall, upon conviction thereof, forfeit not less than \$25 nor more than \$1,500, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding 90 days.
 - b. Second offense. Any person found guilty of violating this chapter who shall previously have been convicted of a violation of the same ordinance shall, upon conviction thereof, forfeit not less than \$50 nor more than \$2,500 for each such offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until such forfeiture and costs of prosecution are paid, but not to exceed six months.
 - c. Each day of violation shall be a separate offense.
- (14) **Severability clause.** If any section, subsection, paragraph, word, or phrase of this chapter is found by a court of competent jurisdiction to be invalid, unenforceable, or unconstitutional, the validity of the remaining sections shall not be affected thereby.

- (15) **Inclusion in Code.** It is the intention of the Common Council and it is hereby provided that the provisions of this chapter shall be made part of the Code of the City of Cornell, and that the sections of this chapter be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section," "article," or other appropriate designation.
- (16) **When effective.** This chapter shall be effective upon adoption and publication as provided by law.