CHAPTER XII
AMUSEMENTS

12.001 AMUSEMENT DEVICE LICENSE

A. Definition(s).

1. "Amusement Device" means any machine, game, or similar device whether or not operated by coins, slugs, tokens, or similar items which permits a person or operator to use the device as a game or contest of skill or amusement, whether or not the device registers a score, which may cause a person or operator of the same to secure some amusement, enjoyment, or entertainment, and which is not a gambling machine as defined by Wis. Stats. §945.01(3). The term shall include, but not be limited to because of enumeration, jukebox, electronic, video, or mechanical game machines, pinball machines, shuffleboard, dart boards, and pool or billiard tables.

B. License Required.

1. Amusement Device License. No person, corporation or other legal entity which has possessory control of any commercial premises, shall permit, keep, or maintain an amusement device(s) as herein defined without first obtaining an "amusement device" license to be issued by the City Clerk. The annual fee for such license shall be Thirty ($30.00) Dollars for the first device and Thirty ($30.00) Dollars for each additional device located on the premises. Any location where there are ten (10) or more amusement devices on the premises shall also be subject to the licensing requirements of §12.01 of the Code of General Ordinances. In the event that the Licensee shall add additional devices during the licensing period it shall be the licensee's responsibility to advise the City Clerk of any increase in the number of such devices and pay the appropriate fee prior to installing the additional device. The Clerk shall issue an updated license in the event additional devices are added during the license term. All licenses shall expire on the Thirtieth (30th) day of June each year and there shall be no pro-ration or adjustment of a license fee for less than one (1) year. The license shall not be transferable.

2. Applications for an amusement device license shall be made to the City Clerk on forms furnished by the City Clerk accompanied by the required fee.

3. Review. Licenses will be reviewed by the City Clerk. If the City Clerk is satisfied that the applicant should be entitled to a license the Clerk shall issue a license. However, any applicant desiring to appeal the City Clerk's or designee's ruling to the Common Council may do so be filing a written Notice of Appeal with the City Clerk. Appeals may be acted upon by the Council following he review and recommendation made by the Committee on Licenses/Permits.

4. License Display, Posted.

a. Frame. An amusement device license shall be enclosed in a frame having a transparent front which allows the license to be clearly read. **b. Display**. An amusement device license shall be conspicuously displayed for public inspection at all times.

C. Revocation of License.

The violation of this section and any regulations set forth herein for the violation by the licensee of any city, county, state or federal laws, rules and regulations, or permitting others to violate such ordinances, laws, rules and regulations on the premises shall be sufficient grounds for revocation of license.

D. Penalties.

In addition to the revocation of said license any person violating the provisions of this section shall, upon conviction thereof, pay a forfeiture of not less than One Hundred ($100.00) Dollars not more than Two Hundred ($200.00) Dollars for the first offense and not less than Two Hundred (200.00) Dollars or more than Five Hundred ($500.00) Dollars for the second conviction within one (1) year, and penalties and costs of prosecution. If such forfeiture and costs are not paid as directed by the Court, the Court may direct imprisonment in the Kenosha County Jail for a period of not more than ninety (90) days.

12.01 Amusement and Recreation Enterprise License

A. Definitions.

1. Amusement And Recreation Enterprise shall mean a place, whether indoor or outdoor, where amusement or recreational activities are furnished upon payment of a charge or membership fee, to include, but not limited to, Bowling Alleys, Pool Halls, Skating Rinks, Shooting Galleries and Public Dances. Amusement and Recreation Enterprise shall not include any such facility operated by a unit of government or agency thereof, or by any accredited school, school system or college.

2. Amusement Or Recreational Activities shall include games of chance or skill, children's rides, pinball machines, mechanical games, video games and other amusement devices where there

are fifteen (15) or a combination of fifteen (15) or more thereof on the premises, irrespective of whether or not coin or token operated. Amusement or recreational activities shall also include eleven (11) of any such devices or combination thereof when combined with four (4) pool tables, or twelve (12) of any such devices or combination thereof when combined with three (3) pool tables, or thirteen (13) of such devices or any combination thereof combined with two (2) pool tables or fourteen (14) of any such devices or any combination thereof, when combined with one (1) pool table.

3. Good Moral Character shall mean to be law abiding, to conduct regulated activity in accordance with licensing and permitting regulations, to honor lawful contractual obligations, and to be honest and trustworthy.

4. Pool Table shall mean any table or structure used for the playing of pool, bumper pool or billiards, irrespective of table size.

5. Pool Hall shall mean any building, structure, room, space or area having five (5) or more pool tables.

6. Skating Rink shall mean any building, structure, room, space, or area in which skating is featured.

7. Skating shall include roller skating, roller blading, skateboarding, ice skating or any similar activity.

8. Public Dance shall mean recreational dancing and shall exclude dance lessons through professional instruction or dances held on premises holding a Cabaret License under **Chapter 10** of the Code of General Ordinances.

B. Licenses Required.

1. No person, party, firm or corporation shall operate or maintain an Amusement and Recreation Enterprise without first obtaining from the Common Council a license so to do. If the applicant be a firm or corporation, it shall appoint an agent, named in the application, who shall be subject to approval by the Common Council and who shall have all the qualifications of a person applying for a license. The fee for such a license, shall be One Hundred Fifty ($150.00) Dollars. For the license term commencing June 1, 2003, the fee for such a license shall be Two Hundred ($200.00) Dollars. The license period shall be June 1st through the following May 31st. Licensees and agents must be persons, eighteen (18) years of age or older, and of good moral character.

a. Application. Application for such a license shall be made to the City Clerk in writing, accompanied by the required fee. Such application shall be fully completed on City forms, and shall define all areas and rooms to be licensed.

b. Inspection and Recommendation. Upon receipt of any application, the City Clerk shall send copies thereof to the Department of Neighborhood Services and Inspections, County Health Department, and Fire Department who, within ten (10) days of receiving such copies, shall make a report, in writing, as to whether the premises meet the requirements in **Subsection "C".** with any other pertinent information. The City Clerk shall also send a copy of the application to the Police Department, who shall report, in writing, to the City Attorney, as to any police record of applicant which may reflect upon good moral character. The City Attorney, or designee thereof, shall examine said record and make a recommendation based thereon as to whether or not the license should be granted or agent status approved. A recommendation for denial shall consider only such portions of the record as are materially related to the licensed activity. Such reports shall be delivered to the City Clerk who, in turn, shall deliver them, with the application, to the Committee on Licenses/Permits. Such Committee shall recommend to the Common Council either the granting or denial of the application.

2. Supervisor License. No person, other than the licensee, or an agent of a corporate licensee, shall assume or be permitted to assume the charge of supervision of a licensed premises without a license from the Common Council so to do. The fee for such a license shall be Fifteen ($15) Dollars. For the license term commencing June 1, 2003, the fee for such a license shall be Twenty-five ($25.00) Dollars. The license period shall be June 1st through the following May 31st. No person shall be so licensed unless he or she be a person eighteen (18) years of age or older and of good moral character.

a. Application. Application for a supervisor license shall be made to the City Clerk in writing accompanied by the required fee. Such application shall be fully completed on City forms.

b. Inspection and Recommendation of Licenses. The procedure set forth for the review of the police record of a Licensee or agent in **Subsection B.1.b.** of this Ordinance shall be applicable.

3. Revocation, NonRenewal and Suspension of Licenses. The Common Council,

for just cause, may suspend, revoke, or not renew any license or agent status herein provided, upon serving upon such party written notice of the charges forming a basis for the proposed penalty, in the same manner as that for the service of a Summons in a civil action. Service upon an appointed agent shall be deemed service upon a corporation. Said notice shall provide for a hearing upon a written request therefor being filed with the City Clerk within ten (10) days of service. Absent a timely request for a hearing, the City Clerk shall administratively impose the penalty set forth in said notice.

a. Criteria For License Revocation, NonRenewal Or Suspension. Any Licensee who, within a 730 day period, equals or exceeds a total of one hundred (100) demerit points for the below described conduct committed by Licensee, or employee or agent thereof, whether or not charged and/or convicted, shall have their License subject to revocation, nonrenewal, or suspension, within the discretion of the Common Council.

(1) Twenty-five (25) Demerit Points (except as provided in **Subsection a.(2)**:

(a) Violation of Chapter 125, Wisconsin Statutes.

(b) Violation of **Chapters X, XI, XII**, of the Code of General Ordinances.

(c) Violation of any City or County Gambling Ordinances or knowingly permitting any person to commit such violation.

(d) File an untrue, incorrect and/or incomplete application in violation of **§1.22 A**. of the Code of General Ordinances.

(2) Thirty-five (35) Demerit Points:

(a) Violation of a State or Federal misdemeanor criminal gambling law or knowingly permitting any such violation.

(b) Violation of any State misdemeanor criminal law or City Ordinance prohibiting the use of marijuana or possession thereof without intent to sell or knowingly permitting any person to commit such violation.

(3) Fifty (50) Demerit Points:

(a) Obstruction of any law enforcement officer or knowingly permitting any person to engage in such conduct.

(b) Failing to appear before the Committee or Common Council when ordered to do so by either such body.

(c) Violation of a State or Federal misdemeanor or knowingly permitting any such violation.

(d) Violation of an Order of the Common Council.

(4) One Hundred (100) Demerit Points:

(a) Violation of any State or Federal criminal law prohibiting the sale, trafficking in, or possessing with intent to sell marijuana or any controlled substance, or knowingly permitting any person to commit such violation.

(b) A conviction for a violation of State or Federal criminal law which is a felony, if the circumstances of the charge substantially relate to the circumstances of the licensed activity.

(c) Violation of any State misdemeanor criminal law or City Ordinance prohibiting the use of marijuana or possession thereof with or without intent to sell or knowingly permitting any person to commit such violation.

(5) Discretionary Demerit Points. Nonscheduled offenses shall be the subject of such number of demerit points as designated by the Common Council, within its discretion.

b. Discretion Upon Review. The Common Council is not mandated to revoke, not renew or suspend a License which is subject to revocation, nonrenewal or suspension based upon the criteria in **Subsection A.** therefor, but may take such action as the circumstances warrant with due consideration for mitigating factors.

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

c. Disciplinary, NonRenewal, Suspension and Revocation Hearings. Disciplinary hearings, including nonrenewal, suspension and revocation hearings, shall be held before the Committee on Licenses/Permits, which shall submit a report to the Common Council, including Findings of Fact, Conclusions of Law and a recommendation as to what action, if any, the Common Council should take with respect to the License. The Committee on Licenses/Permits shall provide the Complainant and the Licensee with a copy of the report. Either the Complainant or Licensee may make an objection, orally or in writing, to the report and shall have the opportunity to present arguments supporting the objection to the Common Council. The Common Council shall determine whether the arguments shall be presented orally or in writing, or both. If the Common Council, after considering the Committee on Licenses/Permits' report and any arguments presented by the Complainant and Licensee, finds the complaint to be true, or if there is no objection to a report recommending a suspension, revocation or nonrenewal, the Licensee shall be suspended,

revoked or not renewed as provided by law. If the Common Council finds the complaint untrue, the proceedings shall be dismissed without cost to the accused. The City Clerk shall give notice of each suspension, revocation or nonrenewal to the party whose License is affected.

The judgment of conviction of any Licensee, or employee or agent thereof, in any Municipal, State or Federal Court, irrespective of whether obtained following trial, plea agreement, or bond forfeiture, shall be prima facie proof of said violation for purposes of this Ordinance. However, in the instance of any judgment of conviction entered pursuant to a no contest plea, or considered in law to be rendered pursuant to a no contest plea, said judgment of conviction as a prima facie case may be rebutted. Further, mitigating circumstances may be introduced with respect to any judgment of conviction.

d. Application for Determination of Demerit Points. Any Licensee or the City Clerk, or his/her designee, or the City Attorney, or his/her designee, may, at any time, request the Common Council to determine whether or not conduct which has occurred constitutes a basis for demerit points, and, if so, how many demerit points. The Common Council, in making this determination, shall have before it the recommendation of the Committee and of the City Attorney's Office.

e. Commencement of Penalties. Penalties shall commence the day after they have been imposed by the Common Council. Days of suspension shall run consecutively.

f. Periodic Reports by Police Chief. The Police Chief shall file periodic reports with the City Attorney advising said City Attorney of conduct by any Licensee, or employees thereof, which may constitute a basis for disciplinary action. The City Attorney, at Licensee renewal time, or at any earlier time deemed appropriate, shall bring such matters to the attention of the Committee and make a recommendation on disciplinary action.

g. Off Premises Conduct of Patrons as a Basis for Disciplinary Actions. The off premises conduct of patrons of any premises licensed by this Chapter may be a basis for disciplinary action against such license subject to the following procedures:

(1) Initial Meeting. The Licenses/Permits Committee shall direct the Licensee to appear before it to discuss complaints and potential solutions. If mutual agreements are arrived at, the matter shall be held in abeyance to provide Licensee an opportunity to comply with such mutual agreements, which shall be reduced to writing and served upon Licensee.

(2) Committee Hearing on Proposed Order. In the event the initial meeting does not result in a mutual agreement to resolve complaints, the City Attorney shall draft a tentative order which mandates certain specific corrective action, and Licensee shall be served with a copy thereof and directed to appear before the Licenses/Permits Committee to discuss the proposed order. Following Licensee being heard, or being provided with an opportunity to be heard, the Finance Committee shall determine the proposed form of such order.

(3) Common Council Hearing on Proposed Order. Licensee shall be served with the proposed order of the Licenses/Permits Committee and be directed to appear before the Common Council to discuss the proposed order. Following Licensee being provided with an opportunity to be heard, the Common Council shall determine the final form of such order, which shall be served on Licensee.

(4) Violations. Violations of the final order of the Common Council, following service upon Licensee, shall constitute grounds for revocation in and of itself, or such other action as the Common Council deems appropriate.

h. Time For Action. Disciplinary action need not be commenced and completed in the same License year as of the offense occurred. Where disciplinary actions are not commenced and completed within a License term, a License shall be granted subject to a "NonRenewal Revocation Hearing", to be held as soon as practicable.

C. Regulations Respecting Premises. The premises to be used for an Amusement and Recreation Enterprise shall:

1. Where in a building or structure, have at least one (1) window having a pane of transparent glass no less than one (1) square foot in size at a point of public access from which the interior of the licensed premises may be viewed. The base of said window shall be no higher than sixty-eight (68") inches from the viewing floor.

2. Have a minimum of two (2) easily available, marked and useful exits from the building.

3. During hours of operation, have unlocked entrances and exits.

4. Have separate, clean, adequate and immediately accessible washrooms and toilets for each sex on the licensed premises.

5. Be in compliance with the City's Zoning Ordinance and Code of General Ordinances.

Subsections 1. and **2.** shall not apply if the

premises to be licensed are within an enclosed mall. If said premises to be licensed are located in an enclosed mall, the Director of Neighborhood Services and Inspections may waive **Subsection 4.,** where separate, clean, adequate and immediately accessible washrooms and toilets for each sex are located within the mall for general public use, unless the premises are the subject of a Restaurant Permit and has seating for dining.

D. Regulations Respecting Premises.

1. No licensee, agent, supervisor or employee of licensee shall permit any person under the age of eighteen (18) years to be present on the licensed premises between the hours of 8:00 A.M. and 2:30 P.M. on days which said minors are scheduled to be in school. Licensee shall post notice of this prohibition at the entrance of the licensed premises.

2. While open for business, all licensed premises shall be under the direct supervision of either the licensee, agent or licensed supervisor.

3. The holding of a license hereunder does not negate the requirement to hold other licenses or permits which may be applicable.

4. No gambling shall be permitted on the licensed premises.

5. No alcoholic beverages shall be served, consumed, or permitted on the licensed premises without an appropriate license.

6. No person who is visibly under the influence of alcoholic beverages or controlled substances shall be allowed to enter or remain on the licensed premises.

7. No person shall be permitted to conduct themselves in a disorderly manner on the licensed premises and the licensee shall obey any reasonable order of the Police Department to terminate or prevent such disorderly conduct.

8. There shall be compliance with State and County Obscenity laws.

9. Frequenters of the licensed premises shall not be permitted to congregate on the parking lot or public walks and thoroughfares adjacent to said premises.

10. There shall be no controlled substances permitted on the licensed premises.

11. Licensee shall comply with City, County, State or Federal laws, rules and regulations which are applicable to the licensed premises.

12. The licensee shall notify the Police Department of the hours of operation.

13. **Chapter XXIII** of the Code of General Ordinances, "NOISE CONTROL", shall be strictly complied with.

14. Licensee shall maintain the same closing hours as govern Retail Class "B" Licenses under Chapter 125, Wisconsin Statutes.

15. No Licensee, agent, supervisor or employee of Licensee shall permit any minor person to be on the licensed premises in violation of **§11.05** of the Code of General Ordinances, entitled "Curfew", as said Ordinance now exists or may be amended in the future.

E. Safe Design And Operation. The purpose of this Ordinance is to provide an opportunity for City Code inspection and enforcement and to promote the orderly operation of the licensed premises. The Licensee is solely responsible for the safe design and operation of the licensed premises.

F. Liability Insurance. Any Licensee who does not maintain a policy of liability insurance shall conspicuously post notice of such lack of insurance at every entrance to the licensed premises.

G. Off Premises Conduct Of Patrons As A Basis For Disciplinary Actions. The off premises conduct of patrons of any Licensee may be a basis for disciplinary action against such License subject to the following procedures:

1. Initial Meeting. The Committee on Licenses/Permits shall direct the Licensee to appear before it to discuss complaints and potential solutions. If mutual agreements are arrived at, the matter shall be held in abeyance to provide Licensee an opportunity to comply with such mutual agreements, which shall be reduced to writing and served upon Licensee.

2. Committee Hearing On Proposed Order. In the event the initial meeting does not result in a mutual agreement to resolve complaints, the City Attorney, or designee thereof, shall draft a tentative order which mandates certain specific corrective action, and Licensee shall be served with a copy thereof and directed to appear before the Committee on Licenses/Permits to discuss the proposed order. Following Licensee being heard, or being provided with an opportunity to be heard, the Committee on Licenses/Permits shall determine the proposed form of such order.

3. Common Council Hearing On Proposed Order. Licensee shall be served with the proposed order of the Committee on Licenses/Permits and be directed to appear before the Common Council to discuss the proposed order. Following Licensee being provided with an opportunity to be heard, the Common Council shall determine the final form of such order, which shall be served on Licensee.

4. Violations. Violations of the final order of the Common Council, following service upon Licensee, shall constitute grounds for disciplinary

action.

H. Violations. Each calendar day of a violation of this Ordinance continues shall be considered a separate offense.

12.02 CIRCUS, MENAGERIE, ETC.

A. Granting License. The Mayor, in his discretion and upon conditions he deems advisable, may grant a license to any person, firm, or corporation to conduct for gain any circus, menagerie, or other entertainment given in open air, or partially or wholly under canvas. He may likewise grant a permit for a parade to be given in connection with any such entertainment.

B. License Fees.

1. For circus or kindred entertainment which uses Twenty-five Dollars or less in transportation, the sum of One Hundred ($100) Dollars per day; an additional fee of Two ($2.00) Dollars shall be charged for each railroad car above twenty-five.

2. For dog and pony shows, Twenty-five ($25.00) Dollars per day.

3. For theatrical, variety, vaudeville, burlesque, operatic or other performance given under a tent and every open air show, not less than Five ($5.00) Dollars nor more than Twenty-five ($25.00) Dollars per day.

4. Parades.
a. No fee shall be charged for a parade where the entertainment has been licensed above.
b. Where entertainment has not been licensed, the parade fee for circus shall be Fifty ($50.00) Dollars per parade; for dog and pony show, Twenty-five ($25.00) Dollars per parade.

C. Miscellaneous. Residents, local societies and local organizations may give musical entertainments without license charge.

12.03 CARNIVALS

A. Definitions. Carnival is defined as a place of amusement conducted for less than thirty (30) days upon property not owned by the provider of said amusement, where said amusement is in the nature of more than two (2) rides, and/or games of skill or chance, and/or incidental live entertainment.

B. Prohibition. No person, party, firm or corporation shall operate or maintain a carnival within the City limits without a prior permit to do so, or contrary to the terms of this Ordinance.

C. Application and Fee. Applications for a carnival license shall be made on forms provided by the City Clerk. There shall be a Fifty ($50.00) Dollar license fee, payable in advance. Applications shall be approved by the Common Council, following review by the Committee on Public Safety & Welfare. However, in the event that there is not a Council meeting from the time an application is submitted and prior to the event, the permit may be approved by the Mayor after consultation with the alderman of the district in which the carnival is to operate.

D. Requirements.

1. A condition of such license shall be the furnishing of a Certificate of Insurance, containing a provision that the City Clerk shall be notified twenty (20) days in advance of the effective date of any termination or cancellation thereof, which Certificate shall indicate that there is, in full force and effect, a policy of public liability insurance and motor vehicle liability insurance for each motor vehicle used in conjunction with the licensed activity, issued by an insurance company licensed to do business in the State of Wisconsin, in the amount of Two Million ($2,000,000.00) Dollars protecting against claims involving death and personal injury, and One Hundred Thousand ($100,000.00) Dollars protecting against claims involving property damage.

2. License holders must obey all laws, rules and regulations of the State of Wisconsin and the City of Kenosha.

3. License holders shall not create or maintain a private, public or attractive nuisance.

4. License holders must maintain safe equipment and operate same in a sanitary and safe environment and take this license with the understanding that the Mayor, Building Inspector, Health Administrator or Fire Chief may suspend operation thereof for twenty-four (24) hours pending an investigation of any unsafe condition. A longer suspension or license termination shall require notice and a hearing, with decisions appealable to the Common Council.

E. Separate Offense. Each day of violation of this Ordinance shall be deemed as a separate offense.

12.04 THEATRES

A. Definitions.

1. Good Moral Character shall mean to be

law abiding, to conduct regulated activity in accordance with licensing and permitting regulations, to honor lawful contractual obligations, and to be honest and trustworthy.

2. Motion Pictures shall mean a sequence of pictures, each different from the last, photographed for projection on a screen. The term shall specifically include but not be limited to the projection of 8mm or other sized films, the playing of prerecorded videotapes, or the projection of a series of slides of transparent film. The term shall be independent of the size, shape, composition, or function of the screen upon which the motion picture is viewed. The term motion picture shall specifically exclude interactive video games as might otherwise be subject to regulation under **Section 12.01** of the Code of General Ordinances.

3. Theatres shall mean a place, whether indoor or outdoor, used for the showing of motion pictures, the performance of plays, concerts, shows or live entertainment.

B. Licenses Required.

1. License and Fee. No person, party, firm or corporation shall operate or maintain any premises as a theater without first obtaining from the Common Council a license for the purpose. If the applicant be a firm or corporation, it shall appoint an agent, named in the application, who shall be subject to approval by the Common Council and who shall have all the qualifications of a person applying for a license. The fee for such a license, which shall be for a period of one (1) year, shall be Five Hundred ($500) Dollars. The license period shall be June 1st through the following May 31st. Licensees and agents must be persons, eighteen (18) years of age or older, and of good moral character. The license shall be valid only with respect to the premises described in the application, as approved by the Common Council.

a. Application. Application for such a license shall be made to the City Clerk in writing, accompanied by the required fee. Such application shall be fully completed on City forms, and shall define all areas and rooms of premises designated to be licensed.

b. Inspection and Recommendation. Upon receipt of any application, the City Clerk shall send copies thereof to the Department of Neighborhood Services and Inspections, County Health Department, and Fire Department who, within ten (10) days of receiving such copies, shall make a report, in writing, as to whether the premises upon which a licensed activity will be conducted meet the requirements in **Subsection "C"**. with any other pertinent information. The Fire Department shall determine the seating or holding capacity of the premises to be licensed. The City Clerk shall also send a copy of the application to the Police Department, who shall report, in writing, to the City Attorney, as to any police record of applicant which may reflect upon good moral character. The City Attorney, or designee thereof, shall examine said record and make a recommendation based thereon as to whether or not the license should be granted or agent status approved. A recommendation for denial shall consider only such portions of the record as are materially related to the licensed activity. Such reports shall be delivered to the City Clerk who, in turn, shall deliver them, with the application, to the Committee on Licenses/Permits. Such Committee shall recommend to the Common Council either the granting or denial of the application.

c. Application for Fee Waiver. Not for profit corporations operating as a community theatre for the purpose of promoting art and culture may apply to the Common Council for a waiver of the license fee for the year covered by the license application.

d. Exemptions from Licensing Requirement. The following shall be exempt from the licensing provisions of this Ordinance:

(i) Premises operated or activities sponsored by a unit of government.

(ii) Premises operated or activities sponsored by any accredited school, school system or college.

(iii) Premises zoned and used for residential purposes.

(iv) Premises of churches, synagogues, mosques, or other bona fide religious institutions where shows, motion pictures, skits, pageants, or plays are periodically performed or shown with or without charge to the public.

(v) Premises licensed under **Section 12.01** of the Code of General Ordinances entitled "Amusement and Recreation Enterprise".

(vi) Premises where the only activity subject to this Ordinance is a live lecture illustrated with projected transparent sheets or slides.

(vii) Premises which may be entered without charge upon which the only activity subject to this Ordinance is the exhibition of motion pictures on a television monitor regardless of whether the motion pictures were received contemporaneously through electromagnetic signals or where from a prerecorded videotape.

(viii) Premises having and maintaining a Cabaret License under **Section 10.07** of the Code of General Ordinances where the capacity of the premises is less than five hundred (500) persons.

(ix) Premises used by a business for business

presentations to employees and business affiliates.

e. Temporary License. The Common Council may issue a Temporary License for a period not to exceed thirty (30) calendar days in any year and waive any regulations respecting premises which are not applicable due to the nature of the event and/or premises. The fee shall be Fifty ($50.00) Dollars for any period of consecutive days within the thirty (30) day limit for such license. The Common Council may waive the fee in accordance with **Subsection B.1.c.** The license may be conditioned in accordance with recommendations made by departments conducting inspections and making recommendations to the Committee on Licenses and Permits, and the Common Council.

2. Revocation, NonRenewal and Suspension of Licenses. The Common Council, for just cause, may suspend, revoke, or not renew any license or agent status herein provided, upon serving upon such party written notice of the charges forming a basis for the proposed penalty, in the same manner as that for the service of a Summons in a civil action. Service upon an appointed agent shall be deemed service upon a corporation. Said notice shall provide for a hearing upon a written request therefor being filed with the City Clerk within ten (10) days of service. Absent a timely request for a hearing, the City Clerk shall administratively impose the penalty set forth in said notice.

3. Disciplinary, NonRenewal, Suspension and Revocation Hearings. Disciplinary hearings, including nonrenewal, suspension and revocation hearings, shall be held before the Committee on Licenses/Permits, which shall submit a report to the Common Council, including Findings of Fact, Conclusions of Law and a recommendation as to what action, if any, the Common Council should take with respect to the License. The Committee on Licenses/Permits shall provide the Complainant and the Licensee with a copy of the report. Either the Complainant or Licensee may make an objection, orally or in writing, to the report and shall have the opportunity to present arguments supporting the objection to the Common Council. The Common Council shall determine whether the arguments shall be presented orally or in writing, or both. If the Common Council, after considering the Committee on Licenses/Permits' report and any arguments presented by the Complainant and Licensee, finds the complaint to be true, or if there is no objection to a report recommending a suspension, revocation or nonrenewal, the Licensee shall be suspended, revoked or not renewed as provided by law. If the Common Council finds the complaint untrue, the proceedings shall be dismissed without cost to the accused. The City Clerk shall give notice of each suspension, revocation or nonrenewal to the party whose License is affected.

The judgment of conviction of any Licensee, or employee or agent thereof, in any Municipal, State or Federal Court, irrespective of whether obtained following trial, plea agreement, or bond forfeiture, shall be prima facie proof of said violation for purposes of this Ordinance. However, in the instance of any judgment of conviction entered pursuant to a no contest plea, or considered in law to be rendered pursuant to a no contest plea, said judgment of conviction as a prima facie case may be rebutted. Further mitigating circumstances may be introduced with respect to any judgment of conviction.

4. Commencement Of Penalties. Penalties shall commence the day after they have been imposed by the Common Council. Days of suspension shall run consecutively.

5. Periodic Reports By Police Chief. The Police Chief shall file periodic reports with the City Attorney advising said City Attorney of conduct by any Licensee, or employees thereof, which may constitute a basis for disciplinary action. The City Attorney, at License renewal time, or at any earlier time deemed appropriate, shall bring such matters to the attention of the Committee and make a recommendation on disciplinary action.

6. Off Premises Conduct Of Patrons As A Basis For Disciplinary Actions. The off premises conduct of patrons of any premises licensed by this Chapter may be a basis for disciplinary action against such license, subject to the following procedures:

a. Initial Meeting. The Licenses/Permits Committee shall direct the Licensee to appear before it to discuss complaints and potential solutions. If mutual agreements are arrived at, the matter shall be held in abeyance to provide Licensee an opportunity to comply with such mutual agreements, which shall be reduced to writing and served upon Licensee.

b. Committee Hearing On Proposed Order. In the event the initial meeting does not result in a mutual agreement to resolve complaints, the City Attorney shall draft a tentative order which mandates certain specific corrective action, and Licensee shall be served with a copy thereof and directed to appear before the Licenses/Permits Committee to discuss the proposed order. Following Licensee being heard, or being provided

with an opportunity to be heard, the Finance Committee shall determine the proposed form of such order.

c. Common Council Hearing On Proposed Order. Licensee shall be served with the proposed order of the Licenses/Permits Committee and be directed to appear before the Common Council to discuss the proposed order. Following Licensee being provided with an opportunity to be heard, the Common Council shall determine the final form of such order, which shall be served on Licensee.

d. Violations. Violations of the final order of the Common Council, following service upon Licensee, shall constitute grounds for revocation in and of itself, or such other action as the Common Council deems appropriate.

7. Time For Action. Disciplinary action need not be commenced and completed in the same License year as of the offense occurred. Where disciplinary actions are not commenced and completed within a License term, a License shall be granted subject to a "NonRenewal Revocation Hearing", to be held as soon as practicable.

C. Regulations Respecting Premises. The premises to be used for a theater shall:

1. Have a minimum of two (2) easily available, marked and useful exits from the building.

2. During hours of operation, have unlocked entrances and exits.

3. Have separate, clean, adequate and immediately accessible washrooms and toilets for each sex on the licensed premises.

4. Be in compliance with the City's Zoning Ordinance and Code of General Ordinances.

D. Regulations Respecting Operation of Premises.

1. No licensee, agent, or employee of licensee shall permit any person under the age of eighteen (18) years to be present on the licensed premises between the hours of 8:00 A.M. and 2:30 P.M. on days which said minors are scheduled to be in school, unless the students' school has authorized an absence from school for a specified date and time. Licensee shall post notice of this prohibition at the entrance of the licensed premises.

2. The holding of a license hereunder does not negate the requirement to hold other licenses or permits which may be applicable.

3. No gambling shall be permitted on the licensed premises.

4. No alcoholic beverages shall be served, consumed, or permitted on the licensed premises without an appropriate license.

5. No person who is visibly under the influence of alcoholic beverages or controlled substances shall be allowed to enter or remain on the licensed premises.

6. No person on the licensed premises shall be permitted to conduct themselves in a manner as to interfere with the peaceful enjoyment of the premises by other patrons or in an otherwise disorderly manner. The licensee shall obey any reasonable order of the Police Department to terminate or prevent such conduct.

7. There shall be compliance with State and County Obscenity laws.

8. Frequenters of the licensed premises shall not be permitted to congregate on the parking lot or public walks and thoroughfares adjacent to said premises, unless standing in line for admission.

9. There shall be no controlled substances permitted on the licensed premises.

10. Licensee shall comply with City, County, State or Federal laws, rules and regulations which are applicable to the licensed premises.

11. The licensee shall conspicuously post the hours of operation of the licensed premises at the main entrance.

12. Chapter XXIII of the Code of General Ordinances, "NOISE CONTROL", shall be strictly complied with.

13. Licensee shall maintain the same closing hours as govern Retail Class "B" Licenses under Chapter 125, Wisconsin Statutes.

14. No Licensee, agent, supervisor or employee of Licensee shall permit any minor person to be on the licensed premises in violation of **§11.05** of the Code of General Ordinances, entitled "Curfew", as said Ordinance now exists or may be amended in the future.

15. Licensee shall post the seating or holding capacity of the premises, as determined by the Fire Department, at or near the main entrance to the premises. Licensee shall not permit patrons on the licensed premises beyond the seating or holding capacity as determined by the City Fire Department, and shall not obstruct or permit the obstruction of aisles, fire exits and doorways.

16. Licensee shall maintain licensed premises in accordance with section entitled "Regulations Respecting Premises".

E. Safe Design And Operation. The purpose of this Ordinance is to provide an opportunity for City Code inspection and enforcement and to promote the orderly operation of the licensed premises. The Licensee is solely responsible for the safe design and operation of the licensed premises.

F. Liability Insurance. Any Licensee who does not maintain a policy of liability insurance shall

conspicuously post notice of such lack of insurance at every entrance to the licensed premises.

G. Violations. Each calendar day of a violation of this Ordinance continues shall be considered a separate offense.

12.05 PENALTIES

Anyone violating any of the provisions of this Chapter, upon conviction thereof, shall be subject to a forfeiture not to exceed Five Hundred ($500) Dollars, plus the payment of the costs of prosecution, and in default of the timely payment thereof, shall be committed to the County Jail until such forfeiture has been paid, but for a period not to exceed sixty (60) days.