

CHAPTER XIII  
BUSINESS LICENSES

13.01 SCRAP SALVAGE DEALERS AND SCRAP SALVAGE COLLECTORS

**A. Purpose.** The Common Council of the City of Kenosha, Wisconsin makes the following findings:

1. "**Scrap Salvage**", as defined herein, is, or in the future may be, stored in a dangerous or unsanitary manner in yards, open areas or in other places within the City; and,

2. The places in which "Scrap Salvage", as defined herein, is stored, or in the future may be stored, tend to become overgrown with weeds, littered with rubbish and debris; and infested with rats, mice, insects, reptiles, and other vermin; and,

3. Such conditions tend to attract children and endanger their lives and health; spread disease; invite plundering; attract vagrants; create fire hazards and other safety and health hazards; create, extend, and aggravate urban blight; interfere with the enjoyment of and reduce the value of private property; and interfere with the comfort and well-being of the public; and,

4. Thieves and receivers of stolen property frequently attempt to dispose of stolen property by representing it to be legitimately acquired "Scrap Salvage".

Based upon said findings, it is determined that adequate protection of the public health, safety, and welfare requires that the business of handling and dealing in "Scrap Salvage" be regulated and controlled, and such is the purpose of this Ordinance.

**B. Definitions.** Except where otherwise indicated by the context, the following definitions shall apply in the interpretation and enforcement of this Ordinance:

1. "**Person**" shall mean any person, firm, partnership, association, corporation, company, or organization of any kind.

2. "**Scrap Salvage**" shall mean any of the following or combination thereof: old iron, steel, brass, copper, tin, lead or other base metals; used lumber, used conveyor belts, used barrels, used appliances not intended for resale as such; old cordage, ropes, rags, fibers or fabrics; old tires or rubber; old bottles or other glass; bones; wastepaper and other waste or discarded material which might be prepared to be used again in some other form; and motor vehicles, no longer used as such, to be used

for scrap metal or for the stripping of parts. "Scrap Salvage" shall not include materials or objects accumulated by a manufacturer as by-products, waste, or scraps from their own manufacturing process or used as an integral part of its own manufacturing process when stored upon manufacturer's premises, when "Scrap Salvage" is shielded from view by a fence meeting the requirements of **Subsection K.1.o.** of this Ordinance as to size and construction. "Scrap Salvage" shall not include used household furniture, used appliances taken in trade and held for less than thirty (30) days, used wearing apparel, railroad ties intended for landscaping purposes, used brick and tile which is stacked and bound, used plumbing fixtures, excluding pipes, used precious metal or metals, used jewelry, used tools and other used articles or personal property, which are bought and sold, without substantial alteration, as secondhand property to be used for the purpose for which originally manufactured or produced. "Scrap Salvage" shall not include aluminum cans collected for the purpose of recycling or returnable glass bottles collected for the purpose of refilling when either is stored in a wholly enclosed building or structure.

3. "**Scrap Salvage Yard**" shall mean a yard, lot, or place, covered or uncovered, outdoors or in an enclosed building or structure, containing "Scrap Salvage", as defined above, upon which occurs one or more acts of buying, keeping, dismantling, crushing, recycling, chipping, reducing, stripping, reusing, processing, selling, or offering for sale any "Scrap Salvage", in whole units or by parts, for a business or commercial purpose, whether or not the proceeds from such act or acts are to be used for charitable purposes.

4. "**Scrap Salvage Dealer**" shall mean a person who operates a "Scrap Salvage Yard", as defined above, within the City.

5. "**Scrap Salvage Collector**" shall mean a person who buys, sells, collects, or delivers "Scrap Salvage" which is acquired from another person as a business or employment within the City, but who is not an operator of a "Scrap Salvage Yard" within the City or an employee of such an operator.

6. "**Business Premises**", "**Licensed Premises**" or "**Premises**" shall mean the area of a "Scrap Salvage Yard" as described in a "Scrap Salvage Dealer's" license or application for license, as provided for in this Ordinance, and approved by the Common Council.

7. "**Fire Lane**" shall mean a roadway which is accessible year round and of sufficient size, configuration and location so as to permit firefighting

and emergency equipment access to all acres of the "Scrap Salvage Yard".

**C. License Requirements/ Prohibitions/ Exceptions.**

**1. License Required.** It shall be unlawful for any person to act as a "Scrap Salvage Dealer" or "Scrap Salvage Collector" within the City whether personally, by agents or employees, singly, or along with some other business or enterprise, without first having obtained a license therefor from the Common Council in accordance with the provisions of this Ordinance.

**2. Separate Licenses.** A "Scrap Salvage Dealer" who operates more than one (1) "Scrap Salvage Yard" within the City shall be required to have in effect a separate license for each "Scrap Salvage Yard".

**3. Other Licenses And Permits.** A license issued hereunder shall not exempt the holder thereof from obtaining such other licenses and permits as may be relevant and otherwise required by the City or by any other governmental agency.

**4. Aluminum Cans.** No "Scrap Salvage Collector" or "Scrap Salvage Dealer" License is required hereunder for the collection of aluminum cans for the purpose of recycling thereof, as authorized by the Zoning Ordinance, where they are stored in a wholly enclosed building or structure.

**5. Compliance With License Requirements.** It shall be unlawful for any licensee to perform a licensed activity contrary to the terms of this Ordinance.

**6. Compliance With Order Of City Enforcing Departments.** It shall be unlawful for any licensee to fail to obey any final order of any enforcing department which was issued under the authority hereof.

**7. Returnable Glass Bottles.** No "Scrap Salvage Collector" or "Scrap Salvage Dealer" License is required for the collection of returnable glass bottles for the purpose of the refilling thereof, when they are stored in a wholly enclosed building or structure.

**8. City Licensed Towers.** No "Scrap Salvage Collector" or "Scrap Salvage Dealer" License is required for a Tower licensed under §13.12 of the Code of General Ordinances while engaged in a licensed activity thereunder.

**9. City.** The City of Kenosha is excluded from

the licensing requirements hereof.

**D. Enforcement.** The Director of the Department of Neighborhood Services and Inspections, or designee thereof, shall have the primary responsibility to enforce this Ordinance through the coordination of inspections and shall be responsible for submitting inspection reports of all enforcing departments to the Common Council and its licensing committee.

Citizens may file complaints with any Department having enforcement powers, and it shall be the duty of any Department receiving a complaint which is not within their jurisdiction to take the complaint and refer it to the Department having proper jurisdiction. After normal City Municipal Building working hours, all complaints shall be made to the Police Department, who, where the complaint is outside of its jurisdiction, shall take the complaint and refer it to the Department having proper jurisdiction.

The Director of the Department of Neighborhood Services and Inspections, or designee thereof, shall have the responsibility of investigating complaints to the effect that some person is engaged in an activity requiring a license hereunder without first having obtained said license. Said investigation shall be sent to the City Attorney who shall make a final determination on said matter and issue cease and desist orders where appropriate.

This Ordinance shall be enforced by the following City Departments (enforcing departments) as follows:

**1.** By the Director of the Department of Neighborhood Services and Inspections or designee thereof, with respect to the Building (**Chapter IX**) and Sign (**Chapter XV**) Codes, the Zoning Code, and with respect to provisions of this Ordinance regulating fences and height of "Scrap Salvage" piles.

**2.** By the Fire Chief, or designee thereof with respect to the Fire (**Chapter III**) Code and with respect to the provisions of this Ordinance related to "Fire Lanes" and fire control, fire prevention and fire fighting.

**3.** By the Police Chief, or designee thereof, with respect to Good Order and Conduct (**Chapter XI**) and with respect to the crime prevention and detection provisions of this Ordinance.

**4.** By the Health Administrator, or designee thereof, with respect to the Health (**Chapter IV**) and Noise (**Chapter XXIII**) Codes, and with respect to the health and sanitation provisions of this Ordinance.

**E. Inspections.** Applicants and Licensees shall permit authorized representatives of any Department of the City having enforcement powers hereunder to inspect the premises proposed to be licensed or licensed, with or without advance notice, as often as may be required to permit said Departments to perform their duties and assure compliance with this Ordinance, without first obtaining a special inspection warrant. Inspections shall be made during normal hours of business operation in the absence of emergency circumstances which require prompt action to protect the public health, safety and welfare or to preserve evidence of noncompliance with this Ordinance. The unreasonable failure to permit inspections shall be grounds for license denial, nonrenewal, suspension or revocation.

Upon notice of application by the City Clerk to the enforcing departments, they shall inspect the premises/equipment of each new license applicant and licensee seeking license renewal, where they have duties with respect thereto, as part of the application/license renewal process and prior to application review. The Fire Chief, or designee thereof, shall make periodic inspections of Licensees premises/equipment during the license period and report apparent violations of this Ordinance over which it does not have jurisdiction to any enforcing department having jurisdiction thereover. Enforcing departments may also inspect the premises/equipment of any Licensee upon a complaint being made with respect thereto by any person.

**F. Application.** An applicant for a license under this Ordinance shall file with the City Clerk a written application, which is true, correct and complete, signed by himself, if an individual, by all partners if a partnership, and by the president or chief officer of a corporation or other organization, upon forms provided by the City Clerk, together with a fee as hereinafter prescribed. The application shall be sworn to by each of its signers before a notary public or other officer authorized by law to administer oaths and shall include the following information or material:

**1. With respect to "Scrap Salvage Dealers":**

**a.** Exact address or location of the place where the business is or is proposed to be carried on, plus a sketch of the actual premises to be used in connection with the business, giving distances in feet and showing fire lanes, property lines, buildings, and abutting roads.

**b.** A description of the type of construction of any building and structure to be used in connection with the licensed business; a sketch showing the location of such buildings or structures on the business premises, with respect to their distance from

roads and fire lanes and a diagram or plan giving distances and heights, showing floors, exits, entrances, windows, ventilators, and walls.

**c.** A description of any equipment or machinery which will be utilized to process "Scrap Salvage" and a description of motor vehicles which will be used to collect or haul "Scrap Salvage" in the operation of the licensed business, including their I.D., D.M.V. and L.C. numbers, where applicable.

**d.** Such other information as is reasonably necessary to effectuate the purposes of this Ordinance and to arrive at a fair determination of whether the terms of this Ordinance have been complied with.

**e.** Proof of insurance/financial responsibility for all motor vehicles which will be utilized in the operation of the licensed business, in accordance with the requirements of State law.

**f.** Proof that licensee's name is conspicuously and legibly printed on all motor vehicles to be used in the operation of the licensed business.

**g.** Proof of current registration of all motor vehicles to be used in the course of performing licensed activities.

**h.** A list of all persons who will operate motor vehicles in the course of performing licensed activities and proof of their possessing a valid and appropriate Wisconsin Driver's License.

**2. With respect to "Scrap Salvage Collectors":**

**a.** A photograph of all persons required to sign the application, taken within sixty (60) days immediately prior to the date of the filing of the application, which shall be at least 2" by 2", showing their head and shoulders in a clear and distinguishing manner.

**b.** A description of motor vehicles which will be used to collect or haul "Scrap Salvage" in the operation of the licensed business, including I.D., M.V.D. and L.C. numbers, where applicable.

**c.** Such other information as is reasonably necessary to effectuate the purposes of this Ordinance and to arrive at a fair determination of whether the terms of this Ordinance have been complied with.

**d.** Proof of insurance/financial responsibility for all motor vehicles which will be utilized in the operation of the licensed business, in accordance with the requirements of State law.

**e.** Proof that licensee's name is conspicuously and legibly printed on all motor vehicles to be used in the operation of the licensed business.

**f.** Proof of current registration of all motor vehicles to be used in the course of performing licensed activities.

**g.** A list of all persons who will operate motor vehicles in the course of performing licensed activities

and proof of their possessing a valid and appropriate Wisconsin Driver's License.

**G. Recommendation.** Upon receipt of any application, the City Clerk shall send copies thereof to the Department of Neighborhood Services and Inspections, Fire Department, Health Department and Police Department. The Department of Neighborhood Services and Inspections, Fire Department and Health Department, either jointly or severally, within ten (10) days of receiving such copies, shall make a report, in writing, as to whether the premises meet the requirements hereof, along with any other pertinent information. The Police Department shall report in writing, to the City Attorney, as to any police record of applicant which may reflect upon their good moral character or business responsibility. The City Attorney shall examine said record and make a recommendation based thereon as to whether or not the license should be granted. Such reports shall be delivered to the City Clerk or clerk for the Committee on Licensing who, in turn, shall deliver them with the application, to the Committee on Licensing. Such Committee shall recommend to the Common Council either the granting or denial of the application or such other action as may be appropriate.

**H. License.**

**1. Form.** The "Scrap Salvage Dealer's" License as issued, shall bear the following language on its face: "IMPORTANT - This license applies only to the described premises approved by the Common Council and authorizes the Licensee to operate a "Scrap Salvage Yard" in a lawful place and manner only; it is not a substitute for any Certificate of Occupancy, Building Permit, Conditional Use Permit or other licenses, certificates, or permits that might be required by law of the Licensee, and it does not relieve the Licensee of the responsibility of having all such required licenses, permits or certificates at all times and complying with all other laws, rules and regulations affecting the business premises".

**2. Fee.**

- a. Scrap Salvage Dealer: \$350
- b. Scrap Salvage Collector: \$150

**3. Term.**

- a. Scrap Salvage Dealer: May 1 through April 30.
- b. Scrap Salvage Collector: May 1 through April 30.

**4. Renewal.** License renewal applications shall be the same as new license applications, except that Licensee's report of police record need only be updated, and except that renewal applications must be filed with the City Clerk by March 15th in order to

provide for continuous licensing.

**5. Transfer/Assignment.** Licenses are not transferable or assignable, and may not be utilized and approved by the Common Council.

**I. Amendment/Correction.** Applicants and Licensees shall have the duty to amend and correct their application within ten (10) days of such time as any information stated therein is known by Applicant/Licensee to be untrue, incorrect or incomplete. However, no material change in personnel, scope of operation, or site of operation shall be effective without the advance approval thereof by the Common Council based upon a specific request for such approval.

**J. NonProfit And Charitable Entities.** Nonprofit and charitable entities and persons acting on behalf thereof need not obtain a license hereunder where old newspapers, cardboard, aluminum cans or returnable glass bottles are collected solely for the purpose of fund raising and sold directly to a "Scrap Salvage Dealer" or "Scrap Salvage Collector", and where such activity is conducted for no more than thirty (30) days, individually or consecutively, within any calendar year, and where "Scrap Salvage" is stored within a building or enclosed structure, and secured so as not to become litter.

It shall be unlawful for any unlicensed nonprofit or charitable entities or persons acting on behalf thereof to act in the capacity of a "Scrap Salvage Dealer" or "Scrap Salvage Collector", except within the limitations above provided.

**K. General Operating Requirements.**

**1. Scrap Salvage Dealers.** The following general operating requirements shall apply to all "Scrap Salvage Dealers" licensed in accordance with the provisions of this Ordinance:

- a. The license issued pursuant to this Ordinance shall be plainly displayed on the business premises.
- b. The "Scrap Salvage Yard" shall, at all times be maintained in as clean, sanitary and neat of a condition as such premises will reasonably permit.
- c. An area which is not described in the approved license application shall not be used in the conduct of licensed business.
- d. No water shall be allowed to stand on the premises in such manner as to, in the opinion of the Health Administrator, constitutes a breeding place for insects or disease which may endanger health.
- e. Grass and other ground cover on the premises shall be kept at a height of not more than eight (8) inches. The premises shall be substantially free of noxious weeds.

f. No garbage, refuse or other waste liable to give off a foul odor or attract vermin shall be kept on the premises, except for domestic garbage which shall be kept in containers which are, in the opinion of the Health Administrator, rodentproof, and removed from the premises as often as is necessary to provide a sanitary environment, but at no less an interval than on a weekly basis.

g. No "Scrap Salvage" which is stored on the premises shall be allowed to rest upon or protrude over any public street, walkway, or curb or become scattered about or blown off the premises.

h. "Scrap Salvage" on the premises, which is not stored in racks or containers, shall be stored in piles not exceeding thirty (30) feet in height, at an angle of forty (40°) degrees or less from the ground, and shall be arranged so as to permit access to all such "Scrap Salvage" for firefighting purposes. "Scrap Salvage" which is stored in racks or containers shall not be stored at a height in excess of twenty-five (25) feet.

i. No combustible material of any kind not necessary for the operation of the licensed business, whether within or without a building or structure, shall be kept on the premises, except with the written permission of the Fire Department. The premises shall not be allowed to become a fire hazard.

j. "Scrap Salvage" may not be broken into smaller pieces on the premises through the use of a ball or object dropped from a crane or apparatus, without Licensee first obtaining a permit therefor from the Common Council which may be granted and issued only upon a showing by Licensee that such activity will be conducted in a manner which is safe and lawful and which will not injure the public health, safety or welfare. Licensee may be requested, as part of the application process, to conduct or arrange for a demonstration, on site if possible, of the acts which are subject to this permit requirement before the Building Inspector or other designee of the Common Council who may make appropriate observations and cause noise, vibration and other tests to be conducted. The Common Council may place reasonable restrictions on the permitted activity, regulating the time, place and manner of operation.

k. Licensee shall not directly or indirectly purchase "Scrap Salvage" from any person that they know, or should know, cannot rightfully or lawfully sell it or deliver clear title thereto.

l. Except for leaves and plant clippings which may be burned in accordance with §3.23 of the Fire Code, no "Scrap Salvage" or other material shall be burned on the premises.

m. No process shall be utilized to reduce "Scrap Salvage" in size which causes vibrations which may damage the property of another or which may be injurious to the public health, safety and welfare. Complaints in this regard shall be processed by the Health Department, which may issue

abatement orders, following notice and an opportunity to be heard.

n. Chapter XXIII of the Code of General Ordinances, "Noise Control", shall be strictly complied with.

o. The open area of the premises whereupon "Scrap Salvage" is stored shall be enclosed with a solid, vertical wall or fence of a minimum height of six (6) feet measured from ground level, except where "Scrap Salvage" is shielded from view by an earthen berm of a minimum height of six (6) feet in which event the required fence need not shield "Scrap Salvage" from view. Entrances and exits shall not be wider or more numerous than reasonably necessary for the conduct of the licensed business. Fences must be sturdily constructed, safe vertical straight, well maintained and must shield "Scrap Salvage" from view. Fences must be protected with paint or other preservatives. Fences must not create an appearance of patchwork which is indicative of a state of disrepair. Fences shall be of uniform color which will not detract from the value of abutting and neighboring real estate. No signs may be painted on or attached to any fence, except for a sign of not more than eight (8) square feet, located at an entranceway thereto which provides the name of the business. Fences must be constructed in such a fashion and of such materials and color as are approved by the Building Inspector prior to fence construction, repair or replacement. Chainlink fencing shall be appropriate where opaque strips are inserted in the fence. No fence may be constructed or replaced without the approval of the Building Inspector, or designee thereof, which approval may be denied if the above standards have not been complied with or if the construction of a proposed new fence or replacement fence would violate any other provision of law. No "Scrap Salvage" may be stored outside of said fence or may be stored so as to rest against said fence, protrude through it, or hang over it. Fence gates shall be kept closed when not required to be open for ingress or egress, except where a buffer fence is constructed in the vicinity of fence gates within the "Scrap Salvage Yard" which shields "Scrap Salvage" from view when the gates are open. In all other respects, fences shall be installed and constructed in accordance with City Ordinances.

p. No "Scrap Salvage Dealer" licensed hereunder or his agent or employee shall, except for aluminum cans, purchase or receive any "Scrap Salvage" for use in the licensed business from any person under the age of eighteen (18) years without the written consent of a parent or guardian of such person. Such writing shall be held available for inspection by any member, or representative, of the Police Department for one (1) year.

q. Each acquisition of such "Scrap Salvage" as is capable of being used for its original and intended

purpose without repair or alteration, including all motor vehicle parts, except for bulk purchases from industrial and commercial concerns, shall be recorded in English in a permanent type register kept on the business premises, giving the name and residence address of the person from whom the acquisition was made, a description of the "Scrap Salvage" acquired, any identification or serial number, and the date of the transaction. Such data shall be held available for inspection by any member, or representative, of the Police Department for one (1) year. The identification of each seller of a motor vehicle or motor vehicle part shall be checked and the type of identification checked noted, except where the purchase is from a licensed motor vehicle dealer, an insurance company, a City licensed tower or an auction.

r. No "Scrap Salvage Yard" shall be allowed to become a public or attractive nuisance; nor shall any "Scrap Salvage Yard" be operated in such manner as to adversely affect the public health, safety, or welfare.

s. There shall be full compliance with the City Building, Fire and Health Codes and with all other City, County, State and Federal laws, rules or regulations which may be applicable.

t. The Fire Department may order Licensees to install fire lanes, following notice and opportunity to be heard, and upon providing a reasonable time for compliance.

u. The terms of a Conditional Use Permit which are not inconsistent with this Ordinance, shall be complied with at all times as a condition of license maintenance.

v. No "Scrap Salvage" shall be collected which is placed on a City right-of-way for City collection and no "Scrap Salvage" shall be deposited or sorted on a City right-of-way or removed from the property of any nonconsenting person or party.

w. The licensed premises must possess appropriate zoning for the licensed business or constitute a lawful nonconforming use.

x. Motor vehicles which are used in the licensed business shall hold and display an L.C. and M.V.D. number where such number is required by State law, rule or regulation, shall be insured or financially responsible in accordance with State law, shall be properly and currently registered with the State Motor Vehicle Department, and shall have the licensee's name conspicuously and legibly printed thereon.

**2. Scrap Salvage Collectors.** The following general operating requirements shall apply to all "Scrap Salvage Collectors" licensed in accordance with this Ordinance:

a. Licensees shall have the license issued to them under this Ordinance in their immediate possession at all times when acting as a "Scrap Salvage Collector" in the City and shall exhibit it to

any person upon request.

b. Licensee, except for aluminum cans, shall not purchase or receive any "Scrap Salvage" from any person under the age of eighteen (18) years without the written consent of a parent or guardian of such person. Licensee shall retain such writing for a period of at least one (1) year, and shall produce it within a reasonable time upon the request of any member, or representative of a member of the Police Department.

c. Licensee shall record in English, in a permanent type register, each acquisition of such "Scrap Salvage" as is capable of being used for its original and intended purpose, including all motor vehicle parts, except for bulk purchases from industrial and commercial concerns, within the City, giving the name and residence address of the person from whom the acquisition was made, a description of the "Scrap Salvage" acquired, any identification or serial number, and the date of the transaction. Licensee shall retain such data for a period of at least one (1) year, and shall produce them within a reasonable time upon the request of any member or representative of the Police Department. The identification of each seller of a motor vehicle or motor vehicle part shall be checked, and the type of identification checked, noted, except where the purchase is from a licensed motor vehicle dealer, an insurance company, a City licensed tower or an auction.

d. Licensee shall not directly or indirectly purchase "Scrap Salvage" from any person that they know, or should know, cannot rightfully or lawfully sell it or deliver clear title thereto.

e. No "Scrap Salvage" shall be collected which is placed on a City right-of-way for City collection and no "Scrap Salvage" shall be deposited or sorted on a City right-of-way or removed from the property of any nonconsenting person or party.

f. Motor vehicles which are used in the licensed business shall hold and display an L.C. and M.V.D. number where such number is required by State law or regulation, shall be insured or financially responsible in accordance with State law, shall be properly and currently registered with the State Motor Vehicle Department, and shall have the licensee's name conspicuously and legibly printed thereon.

**L. Licensees/Responsibility.** "Scrap Salvage Dealers" and "Scrap Salvage Collectors" shall, with respect to the conduct of their business, have a duty to supervise their agents and employees and shall be responsible for the acts thereof.

**M**  
**Suspected Stolen and Evidentiary Scrap Salvage.** The Police Department may order any licensee hereunder to retain any "Scrap Salvage" upon the premises which is suspected to be stolen for a period not to exceed thirty (30) days pending an

investigation. The Police Department, at any time, may seize from the premises, as evidence, any "Scrap Salvage" which they have probable cause to believe is stolen, and may hold said "Scrap Salvage" for so long as it shall have evidentiary value. Any seized item shall be released within a reasonable time upon prosecution being denied by any prosecuting attorney. Any enforcing department may order a Licensee to retain "Scrap Salvage" upon the premises which is suspected of being held in violation of this Ordinance for a period not to exceed thirty (30) days during which an investigation can be conducted. Any enforcing department may take samples of "Scrap Salvage" for purposes of testing or arrange for any other governmental agency to do so.

**N. Conditional Use Permits.** Conditional Use Permits, as required by the Zoning Ordinance, shall be required prior to any unlicensed premises being licensed and prior to the expansion of any existing licensed premises, and each license shall be conditioned upon obtaining and complying with the provisions of a Conditional Use Permit, where required. A Conditional Use Permit may contain requirements over and above the requirements of this Ordinance, but may not negate any of the requirements of this Ordinance, and if it would do so, any conflicting provisions thereof shall be null and void.

**O. Appeals From Orders.** A Licensee, where the public health, safety and welfare is not in immediate jeopardy, may appeal to the Common Council any order issued by any enforcing Department under authority of this Ordinance by filing a written Notice of Appeal with said Department within ten (10) days of receipt of said order, or within the compliance period, whichever is shorter. The Common Council may direct that the appeal be heard by a Committee thereof.

**P. Revocation and Suspension Of Licenses.** The Common Council may, for just cause, suspend, revoke or not renew any license herein provided, upon serving 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. Just cause shall include, but not be limited to:

1. Failing to maintain a status of good moral character and business responsibility.
2. Obtaining the license through fraud or misrepresentation.
3. Operating contrary to the terms of this Ordinance.
4. Failing to commence doing business within ninety (90) days of being granted a license or within ninety (90) days of the first day of the license term,

whichever is longer, unless an extension of time is applied for and granted by the Finance Committee.

5. Suspending doing business for a period of ninety (90) consecutive days, unless permission is applied for and granted by the Finance Committee.

**Q. Disciplinary Hearings.** Disciplinary hearings, including nonrenewal, suspension and revocation hearings, may be held before the Common Council or before the Committee charged with license review responsibilities.

The Committee on Licensing, when it conducts a hearing, shall submit a report to the City Common Council, including findings of fact, conclusions of law and a recommendation as to what action, if any, the City Common Council should take with respect to the license. Said Committee shall provide the complainant and the licensee with a copy of the report. Either the complainant or Licensee may file an objection to the report and shall have the opportunity to present arguments supporting the objection to the Common Council. The City Common Council shall determine whether the arguments shall be presented orally or in writing, or both. If the City Common Council, after considering the Committee's report and any arguments presented by complainant or Licensee, finds the complaint to be true, or if there is no objection to a report recommending a suspension, revocation or nonrenewal of the license, it shall be suspended, revoked or not renewed as provided by law. If the City 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 Common Council may also order corrective action to be taken within a specified time as a condition of license maintenance, at any time, following notice and an opportunity to be heard.

**R. Penalty.** Any person who shall violate any of the terms and conditions of this Ordinance shall, upon conviction thereof, forfeit not more than Five Hundred (\$500) Dollars, plus the costs of prosecution, and in default of the timely payment thereof be confined in the County Jail for a period not to exceed (30) days.

**S. Violations.** Each day of a violation of this Ordinance shall be considered a separate offense.

## 13.011 RECYCLING CENTER ACTIVITY LICENSE

### A. Definitions

1. Hazardous Waste: has the meaning of the term used in 40 CFR §261.3 unless excluded in §261.4.

2. Person: person, firm, partnership, association, corporation, company, or organization of any kind.

3. Recycling Center: Place upon which Recycling Center Activity conducted by a Licensee under this section takes place.

4. Recycling Center Activity: The commercial collecting of Recycling-Center Material, storing of Recycling-Center-Material, or engaging in Recycling-Center-Material Processing.

5. Recycling-Center Material: Recycling-Center Metals, batteries, catalytic converters, electronic scrap or stainless steel.

6. Recycling-Center-Material Processing: The crushing of metal items or the reduction of the volume of metal items by shredding, chipping, melting, or any other means.

7. Recycling-Center Metal: Aluminum, copper, tin, and all alloys of aluminum, copper, or tin provided that said alloys do not include gold, silver, platinum, palladium, iridium, rhodium, ruthenium, iron, arsenic, mercury, lead, cadmium, antimony, barium, beryllium, osmium, thallium, vanadium, chromium (IV), or radioactive metals.

8. Recycling-Center Yard: The exterior portions of any building associated with a Recycling Center Activity where Recycling-Center Materials are stored.

**B. License Required.**

1. Licenses. It shall be unlawful for any person to conduct Recycling Center Activity within the City, whether personally, by agents or employees, singly, or along with some other business or enterprises without first having obtained a license therefor from the Common Council in accordance with the provisions of this ordinance.

2. Other Licenses and Permits. A license issued hereunder shall not exempt the holder thereof from obtaining such other licenses and permits as may otherwise be required by the City or by any other governmental agency.

**C. Application.** An applicant for a license under this Ordinance shall file with the City Clerk a written application, which is true, correct and complete, signed by himself, if an individual, by all partners if a partnership, and by the president or chief officer of a corporation or other organization, upon forms provided by the City Clerk, together with a fee as hereinafter prescribed. The application shall be sworn to by each of its signers before a notary public or other officer authorized by law to administer oaths and shall include the following information or material:

a. Exact address or location of the place where the business is or is proposed to be carried on, plus a sketch of the actual premises to be used in connection with the business, giving distances in feet and showing fire lanes, property lines, buildings, and

abutting roads, particularly identifying the Recycling-Center Yard.

b. A description of the type of construction of any building and structure to be used in connection with the licensed business; a sketch showing the location of such buildings or structures on the business premises, with respect to their distance from roads and fire lanes and a diagram or plan giving distances and heights, showing floors, exits, entrances, windows, ventilators, and walls.

c. A description of any equipment or machinery which will be utilized to process Recycling Center Material and a description of motor vehicles which will be used to collect or haul Recycling Center Material in the operation of the licensed business, including their Vehicle Identification Number, and any D.M.V. or L.C. numbers, where applicable.

d. Such other information as is reasonably necessary to effectuate the purposes of this Ordinance and to arrive at a fair determination of whether the terms of this Ordinance have been complied with.

e. Proof of insurance/financial responsibility for all motor vehicles which will be utilized in the operation of the licensed business, in accordance with the requirements of State law.

f. Proof of current registration of all motor vehicles to be used in the course of performing licensed activities.

g. A list of all persons who will operate motor vehicles in the course of performing licensed activities and proof of their possessing a valid and appropriate Wisconsin Driver's License.

**D. Application Review.** Upon receipt of any application, the City Clerk shall send copies thereof to the Department of Neighborhood Services and Inspections, Fire Department, Health Department and Police Department. The Department of Neighborhood Services and Inspections, Fire Department and Health Department, either jointly or severally, within ten (10) days of receiving such copies, shall make a report, in writing, as to whether the premises meet the requirements hereof, along with any other pertinent information. The Police Department shall report in writing, to the City Attorney, as to any police record of applicant which may reflect upon their good moral character or business responsibility. The City Attorney shall examine said record and make a recommendation based thereon as to whether or not the license should be granted. Such reports shall be delivered to the City Clerk or clerk for the Committee on Licensing who, in turn, shall deliver them with the application, to the Committee on Licensing. Such Committee shall recommend to the Common Council either the granting or denial of the application or such other action as may be appropriate.

**E. Fee.** The annual fee for a Recycling Center

Activity license is \$350, which shall not be pro-rated.

**F. License Form.** The Recycling Center Activity license shall bear the following language on its face: "IMPORTANT - This license applies only to the described premises approved by the Common Council and authorizes the Licensee to operate a Recycling Center Activity in a lawful place and manner only; it is not a substitute for any Certificate of Occupancy, Building Permit, Conditional Use Permit, or other licenses, certificates, or permits that might be required by law of the Licensee, and it does not relieve the Licensee of the responsibility of having all such required licenses, permits, or certificates at all times and of complying with all other laws, rules and regulations affecting the business premises."

**G. Term/Renewal**

1. The term for a Recycling Center Activity licensee is one year, from May 1 or the date of first issue through the ensuing April 30.

2. License renewal applications shall be the same as new license applications, except that Licensee's report of police record need only be updated.

3. Renewal applications must be filed with the City Clerk by March 15th in order to provide for continuous licensing.

**H. Non-Transferability.** Licenses are not transferable or assignable.

**I. Corrections.** Applicants and Licensees shall have the duty to amend and correct their application within ten (10) days of such time as any information stated therein is known by Applicant/Licensee to be untrue, incorrect or incomplete. No material change in personnel, scope of operation, or site of operation shall be effective without the advance approval thereof by the Common Council based upon a specific request for such approval.

**J. Exemption.** The following are exempted from the provisions of this section:

1. Fund raising efforts by not-for-profit organizations;

2. Community clean up efforts by not-for-profit organizations;

3. Community clean up efforts conducted under the auspices of state Adopt-a-Highway program;

4. Licensed scrap salvage dealers or licensed scrap salvage collectors when operating within the operational limitations of the respective licenses; and

5. The City.

**K. General Operating Requirements.**

1. Recycling Center Activity licensees. The

following general operating requirements shall apply to all Recycling Center Activity licensees licensed in accordance with the provisions of this Section:

a. The license issued pursuant to this Section shall be plainly displayed on the business premises.

b. The Recycling-Center Yard shall, at all times be maintained in as clean, sanitary and neat of a condition as such premises will reasonably permit.

c. An area which is not described in the approved license application shall not be used in the conduct of licensed business.

d. No water shall be allowed to stand on the premises in such manner as to, in the opinion of the Health Administrator, constitutes a breeding place for insects or disease that may endanger health.

e. Grass and other ground cover on the premises shall be kept at a height of not more than eight (8) inches. The premises shall be substantially free of noxious weeds.

f. No garbage, refuse or other waste liable to give off a foul odor or attract vermin shall be kept on the premises, except for domestic garbage which shall be kept in containers which are, in the opinion of the Health Administrator, rodentproof, and removed from the premises as often as is necessary to provide a sanitary environment, but at no less an interval than on a weekly basis.

g. No Recycling Center Material which is stored on the premises shall be allowed to rest upon or protrude over any public street, walkway, or curb or become scattered about or blown off the premises.

h. Recycling Center Material on the premises, which is not stored in racks or containers, shall be stored in piles not exceeding ten feet (10') in height, at an angle of forty degrees (40°) or less from the ground, and shall be arranged so as to permit access to all such Recycling Center Material for firefighting purposes. Recycling Center Material which is stored in racks or containers shall not be stored at a height in excess of ten feet (10').

i. No combustible material of any kind not necessary for the operation of the licensed business, whether within or without a building or structure, shall be kept on the premises, except with the written permission of the Fire Department. The premises shall not be allowed to become a fire hazard.

j. Recycling Center Material may not be reduced in volume on the premises through the use of a any apparatus, without Licensee first obtaining a permission therefor from the Common Council which may be granted and issued only upon a showing by Licensee that such activity will be conducted in a manner which is safe and lawful and which will not injure the public health, safety or welfare. Licensee may be requested, as part of the application process, to conduct or arrange for a demonstration, on site if possible, of the acts which are subject to this permit requirement before the Building Inspector or other

designee of the Common Council who may make appropriate observations and cause noise, vibration and other tests to be conducted. The Common Council may place reasonable restrictions on the permitted volume-reducing activity, regulating the time, place and manner of operation.

**k.** Licensee may not store or process any elemental metal or alloy of metal on a Recycling Center, unless it is a Recycling-center material.

**l.** Even if volume-reducing apparatus has been otherwise permitted by the Common Council, no process shall be utilized to reduce the volume of Recycling Center Material in a manner that causes vibrations which may damage the property of another or which may be injurious to the public health, safety and welfare. Complaints in this regard shall be processed by the Health Department, which may issue abatement orders, following notice and an opportunity to be heard.

**m.** Licensee shall not directly or indirectly purchase Recycling Center Material from any person that they know, or should know, cannot rightfully or lawfully sell it or deliver clear title thereto.

**n.** Chapter XXIII of the Code of General Ordinances, "Noise Control", shall be strictly complied with.

**o.** The open area of the premises whereupon Recycling Center Material is stored shall be enclosed with a solid, vertical wall or fence of a minimum height of six feet (6') measured from ground level, except where Recycling Center Material is shielded from view by an earthen berm of a minimum height of six feet (6') in which event the required fence need not shield Recycling Center Material from view. Entrances and exits shall not be wider or more numerous than reasonably necessary for the conduct of the licensed business. Fences must be sturdily constructed, safe vertical straight, well maintained and must shield Recycling Center Material from view. Fences must be protected with paint or other preservatives. Fences must not create an appearance of patchwork which is indicative of a state of disrepair. Fences shall be of uniform color which will not detract from the value of abutting and neighboring real estate. No signs may be painted on or attached to any fence, except for a sign of not more than eight square feet (8 ft<sup>2</sup>), located at an entranceway thereto which provides the name of the business. Fences must be constructed in such a fashion and of such materials and color as are approved by the Building Inspector prior to fence construction, repair or replacement. Chain link fencing shall be appropriate where opaque strips are inserted in the fence. No fence may be constructed or replaced without the approval of the Building Inspector, or designee thereof, which approval may be denied if the above standards have not been complied with or if the construction of a proposed new fence or replacement fence would violate any other provision of law. No

Recycling Center Material may be stored outside of said fence or may be stored so as to rest against said fence, protrude through it, or hang over it. Fence gates shall be kept closed when not required to be open for ingress or egress, except where a buffer fence is constructed in the vicinity of fence gates within the Recycling-Center Yard which shields Recycling Center Material from view when the gates are open. In all other respects, fences shall be installed and constructed in accordance with City Ordinances.

**p.** No Recycling Center Activity licensee or his or her agent or employee shall, except for aluminum cans, purchase or receive any Recycling Center Material for use in the licensed business from any person under the age of eighteen (18) years without the written consent of a parent or guardian of such person. Such writing shall be held available for inspection by any member, or representative, of the Police Department for one (1) year.

**q.** Each acquisition of such Recycling Center Material as is capable of being used for its original and intended purpose without repair or alteration, including all motor vehicle parts, except for bulk purchases from industrial and commercial concerns, shall be recorded in English in a permanent type register kept on the business premises, giving the name and residence address of the person from whom the acquisition was made, a description of the Recycling Center Material acquired, any identification or serial number, and the date of the transaction. Such data shall be held available for inspection by any member, or representative, of the Police Department for one (1) year. The identification of each seller of a motor vehicle or motor vehicle part shall be checked and the type of identification checked noted, except where the purchase is from a licensed motor vehicle dealer, an insurance company, a City licensed tower or an auction.

**r.** No Recycling-Center Yard shall be allowed to become a public or attractive nuisance; nor shall any Recycling-Center Yard be operated in such manner as to adversely affect the public health, safety, or welfare.

**s.** There shall be full compliance with the City Building, Fire, and Health Codes and with all other City, County, State and Federal laws, rules or regulations which may be applicable.

**t.** The Fire Department may order Licensees to install fire lanes, following notice and opportunity to be heard, and upon providing a reasonable time for compliance.

**u.** The terms of a Conditional Use Permit which are not inconsistent with this Ordinance, shall be complied with at all times as a condition of license maintenance.

**v.** No Recycling Center Material shall be collected which is placed on a City right-of-way for City collection and no Recycling Center Material shall

be deposited or sorted on a City right-of-way or removed from the property of any nonconsenting person or party.

**w.** The licensed premises must possess appropriate zoning for the licensed business or constitute a lawful nonconforming use.

**x.** Motor vehicles which are used in the licensed business shall hold and display an L.C. and M.V.D. number where such number is required by State law, rule or regulation, shall be insured or financially responsible in accordance with State law, shall be properly and currently registered with the State Motor Vehicle Department, and shall have the licensee's name conspicuously and legibly printed thereon.

**y.** Hazardous Waste may not be collected, stored, or processed on the business premises.

**L. Licensees/Responsibility.** Recycling Center Activity licensees shall, with respect to the conduct of their business, have a duty to supervise their agents and employees and shall be responsible for the acts thereof.

**M. Suspected Stolen and Evidentiary Recycling Center Material.** The Police Department may order any licensee hereunder to retain any Recycling Center Material upon the premises which is suspected to be stolen for a period not to exceed thirty (30) days pending an investigation. The Police Department, at any time, may seize from the premises, as evidence, any Recycling Center Material which they have probable cause to believe is stolen, and may hold said Recycling Center Material for so long as it shall have evidentiary value. Any seized item shall be released within a reasonable time upon prosecution being denied by any prosecuting attorney. Any enforcing department may order a Licensee to retain Recycling Center Material upon the premises which is suspected of being held in violation of this Ordinance for a period not to exceed thirty (30) days during which an investigation can be conducted. Any enforcing department may take samples of Recycling Center Material for purposes of testing or arrange for any other governmental agency to do so.

**N. Conditional Use Permits.** Conditional Use Permits, as required by the Zoning Ordinance, shall be required prior to any unlicensed premises being licensed and prior to the expansion of any existing licensed premises, and each license shall be conditioned upon obtaining and complying with the provisions of a Conditional Use Permit, where required. A Conditional Use Permit may contain requirements over and above the requirements of this Ordinance, but may not negate any of the requirements of this Ordinance, and if it would do so, any conflicting provisions thereof shall be null and void.

**O. Appeals From Orders.** A Licensee, where the public health, safety and welfare is not in immediate jeopardy, may appeal to the Common Council any order issued by any enforcing Department under authority of this Ordinance by filing a written Notice of Appeal with said Department within ten (10) days of receipt of said order, or within the compliance period, whichever is shorter. The Common Council may direct that the appeal be heard by a Committee thereof.

**P. Revocation and Suspension Of Licenses.** The Common Council may, for just cause, suspend, revoke or not renew any license herein provided, upon serving 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. Just cause shall include, but not be limited to:

1. Failing to maintain a status of good moral character and business responsibility.
2. Obtaining the license through fraud or misrepresentation.
3. Operating contrary to the terms of this Ordinance.
4. Failing to commence doing business within ninety (90) days of being granted a license or within ninety (90) days of the first day of the license term, whichever is longer, unless an extension of time is applied for and granted by the Committee on Licenses and Permits.
5. Suspending doing business for a period of ninety (90) consecutive days, unless permission is applied for and granted by the Committee on Licenses and Permits.

**Q. Disciplinary Hearings.** Disciplinary hearings, including nonrenewal, suspension and revocation hearings, may be held before the Common Council or before the Committee charged with license review responsibilities.

The Committee on Licenses and Permits, when it conducts a hearing, shall submit a report to the City Common Council, including findings of fact, conclusions of law and a recommendation as to what action, if any, the City Common Council should take with respect to the license. Said Committee shall provide the complainant and the licensee with a copy of the report. Either the complainant or Licensee may file an objection to the report and shall have the opportunity to present arguments supporting the objection to the Common Council. The City Common Council shall determine whether the arguments shall be presented orally or in writing, or both. If the City Common Council, after considering the Committee's report and any arguments presented by complainant or Licensee, finds the complaint to be true, or if there

is no objection to a report recommending a suspension, revocation or nonrenewal of the license, it shall be suspended, revoked or not renewed as provided by law. If the City 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 Common Council may also order corrective action to be taken within a specified time as a condition of license maintenance, at any time, following notice and an opportunity to be heard.

**R. Penalty.** Any person who shall violate any of the terms and conditions of this Ordinance shall, upon conviction thereof, forfeit not more than Five Hundred (\$500) Dollars, plus the costs of prosecution, and in default of the timely payment thereof be confined in the County Jail for a period not to exceed (30) days.

**S. Violations.** Each day of a violation of this Ordinance shall be considered a separate offense.

### 13.0112 Non-Structural Demolition

#### A. Definitions.

**Code Official.** The Director of Neighborhood Services and Inspections Department or his/her designee.

**Salvage.** To remove salvageable material from a vacated building for other than personal re-use by the owner of the real estate from which it was removed, without immediate functional replacement thereof. The phrase "immediate functional replacement thereof" includes without limitation functional replacement that occurs as a part of a remodeling process over time pursuant to a valid and subsisting building permit.

**Salvageable Material.** Real or tangible personal property that:

1. was man-made;
2. was affixed with respect to real property;
3. is detachable from real property; and
4. has a resale value, either for re-use or as scrap.

**Vacated Building.** A building or structure having occupiable space of over fifty thousand square feet (50,000 sq.) that had a principal industrial use as its most recent use allowed by law, which principal industrial use has ceased.

**B. Permit.** No person may salvage from a Vacated Building unless pursuant to a permit therefor granted by the Common Council and issued to the applicant.

#### C. Permit Application.

1. The applicant may be the owner of the real estate, or the Contractor hired by the owner. Under all circumstances, the applicant, if other than the owner, and the owner, shall be jointly and severally responsible for compliance with the terms of this Ordinance.

**2. Form.** Application for a permit, whether initial or renewal, shall be filed with the City Clerk on forms created by the Code Official and provided by the City. The application for a permit shall at a minimum comply with Section 9.05 of the Code of General Ordinances for the City of Kenosha. The Code Official may require additional information of a specific applicant.

**3. Fees.** A permit fee must accompany the application. Permit fees shall be established by the Kenosha Common Council by resolution.

#### D. Permit Grant.

The Common Council may consider the permit application only after receiving the recommendation of the Public Safety and Welfare Committee.

Prior to making its recommendation to grant or deny the application, the Public Safety and Welfare Committee shall consider: the application; the report, if any, of the Code Official; the expertise of the applicant; the effect of the proposed operation on the surrounding neighborhood; the effect on the City of having a stripped structure remain if the structure is not proposed to be immediately razed or immediately renovated; the presentation, if any, of the applicant; the comments of the public; and such other matters germane to the decision.

In making a recommendation to grant, the Public Safety and Welfare Committee shall address the following matters: the amount of the Irrevocable Letter of Credit to be required by the Common Council of the permittee as a condition of issuance of the permit and as a requirement of operation; other State or local permits as required by law, rule, or regulation that must be obtained as a condition of issuance of the permit or as a condition of operation; reasonable special operating requirements to be required of the permittee in addition to those listed in subsection D, herein; and such other matters or limitations as the Public Safety and Welfare Committee determines is necessary to protect the public interest.

After grant and after all conditions of issuance have been satisfied, the Code Official shall issue the permit to the applicant, who may then be referred to herein as permittee or permit holder.

**E. Irrevocable Letter of Credit.**

As a condition of issuance by the City Clerk of the permit, the permittee shall post a Irrevocable Letter of Credit with the City in an amount required by the Common Council and in a form approved by the City Attorney. The Irrevocable Letter of Credit shall guarantee of performance by permittee. The Irrevocable Letter of Credit must be issued by a financial institution certified by the state to conduct such business within the state of Wisconsin, allowing for direct draw by the City on demand without court action and without approval by permittee, to complete work or to repair damage that was the obligation of the permittee. The Irrevocable Letter of Credit must contain as a part of its provisions that it remains as an obligation to the City for no less than one year after completion of the last act by permittee of salvage or after the expiration of a permit issued under this section to the permittee, whichever is later. In considering the amount of the Irrevocable Letter of Credit, the Common Council shall consider: the recommendation, if any, of the Code Official; the expertise of the applicant; the longevity of the applicant; the capitalization of the applicant; the scope of the proposed project; the possible environmental hazards that could be created; the effect of the proposed operation on the surrounding neighborhood; the cost of remediation on the City should the City have to address any matter due to the unwillingness or inability of the permittee to complete its obligations. Under extraordinary circumstances under which the Common Council determines that the requirement to obtain a Letter of Credit is unreasonable, the Common Council may in the exercise of its discretion authorize alternate security.

**F. Permit Term.**

**1. Initial term.** The initial term for permits issued under this section shall be valid for a period of one hundred eighty (180) days from the date of issue.

**2. Renewal term.** A permit issued to the applicant is personal to the applicant and limited to the term granted. The permittee may not have an expectation in the renewal of the permit. The permits may be renewed at the discretion of the Common Council upon application of a permit holder, filed with the City Clerk prior to expiration of the initial term or any renewal terms. Each renewal may be granted for up to sixty (60) additional days.

**G. General Operating Requirements.** The following general operating requirements shall apply to all permittees or those working for permittee subject to terms of the permit in

accordance with the provisions of the ordinance.

**1.** The permit issued pursuant to this ordinance shall be plainly displayed on the premises upon which the building is located.

**2.** The building and premises shall, at all times be maintained in as clean, neat, and sanitary of a condition as such premises will reasonably permit.

**3.** No garbage, refuse, or other waste liable to give off a foul odor or attract vermin shall be kept on the premises, except for domestic garbage which shall be kept in containers which are, in the opinion of the Code Official or the Health Administrator, rodent-proof, and removed from the premises as often as is necessary to provide a sanitary environment.

**4.** Work done under this permit is subject to inspection by the Code Official.

**5.** Permittees shall have the responsibility to maintain proof of insurance policies in the following minimum amounts, naming the City as an additional insured for all entities or natural persons doing work on the property or associated with the work under the permit:

**a. Commercial General Liability:**

- 1. General Aggregate:**  
One Million Dollars (\$1,000,000);
- 2. Each Occurrence**  
One Million Dollars (\$1,000,000.00).

**b. Automobile Liability (Owned, non-owned, leased)**

- 1. Bodily Injury:**  
One Million Dollars (\$1,000,000) each occurrence
- 2. Property Damage:**  
One Million Dollars (\$1,000,000) each occurrence.

**c. Pollution Legal Liability:**

\$5,000,000.00 each loss where asbestos removal, environmental process, abatement, remediation, or dumping/disposal in a Federal or State regulated facility is required; the Common Council may require a greater or lesser minimum amount down to and including zero (0) of Pollution Legal Liability insurance policy, depending on the circumstances of the project that is the subject of the permit.

**d. Workers' Compensation:** Statutory Limits

**e. Umbrella Liability:**

\$2,000,000.00 over the primary Commercial General Liability and Automobile Liability insurance coverages listed above.

**6.** No scrap salvage or debris which is temporarily stored on the premises shall be allowed

to rest or protrude over any public street, walkway, or curb or become scattered about or blown off the premises.

7. No mechanized process whatsoever shall be utilized on premises to reduce salvageable material or debris in volume after such salvageable material has been detached from the real property, unless a special exception is provided therefore. Such prohibited mechanized processes include, but are not limited to, crushers or shredders.

8. There shall be strict compliance with Chapter XXII of the Code of General Ordinances, "Noise Control".

9. No premises or building subject to a permit shall be allowed to become a public nuisance or be operated in such a manner as to adversely affect the public health, safety, or welfare.

10. There shall be full compliance with City Building, Fire and Health Codes and with all other City, County, State and Federal laws, rules or regulations which may be applicable.

11. The permit holder shall, during the salvage process, maintain the work site in a safe and secure condition.

12. The permit holder shall dispose of building debris in a licensed landfill, except for salvaged materials. At any time, the permit holder shall produce to the Code Official receipts and/or an itemized list of debris disposed of by dumping or salvage.

13. The permit holder shall be responsible for disconnections of utilities, including plumbing and electrical, necessary for the salvaging process, and shall provide evidence that the necessary disconnections have been accomplished.

14. The Irrevocable Letter of Credit imposed as a condition of issuance of the permit shall be maintained.

15. Permittee shall comply with all orders of the Common Council imposed at the granting of the permit or at any other time.

16. Permittee must provide to the City, and must maintain current, a list of contractors doing work that is subject to a permit issued pursuant to this Section, which list of contractors shall include proof of valid and subsisting policies of insurance in satisfaction of the General Operating Requirements specified herein. As used herein, the phrase "maintain current" means that the list filed with the City is updated by the permittee prior to the contractor commencing work pursuant to the permit.

**H. Inspections.** Permit holders and property owners shall permit authorized representatives of any Department of the City having enforcement powers to inspect the premises proposed to be permitted, with or without advanced notice, as often as may be required to permit said Departments to perform their duties and assure compliance with this ordinance,

without first obtaining a special inspection warrant. Inspections shall be made during normal hours of business operation in the absence of emergency circumstances which require prompt action to protect the public health, safety and welfare or to preserve evidence of noncompliance with this ordinance. The unreasonable failure to permit inspections shall be grounds for permit denial, suspension or revocation.

#### **I. Summary Suspension.**

If in the opinion of the Code Official, the public is subject to imminent danger due to the violation by the permittee of any one or combination of more than one of the General Operating Requirements, the Code Official shall issue an order to the permittee requiring immediate cessation of those operations implicating the imminent danger. Pursuant to such order, the permittee shall cause such operations to cease as directed by the Code Official. Failure to maintain insurance as required, to maintain the Irrevocable Letter of Credit as required, or to permit inspection as required are each per se violations implicating imminent danger to the public necessitating an order to cease all operations.

In the event that an order to the permittee requiring immediate cessation is issued by the Code Official, such order shall be considered by the Public Safety and Welfare Committee of the Common Council no later than at its next regular meeting. The Public Safety and Welfare Committee, after hearing from the Code Official, the permittee, and the public, shall affirm the order, reverse the order, or modify the order. The decision of the Public Safety and Welfare Committee may be appealed to the Common Council by either the Code Official or the permittee.

**J. Non-renewal or Revocation Disciplinary Hearings.** Disciplinary hearings, including nonrenewal, suspension and revocation hearings, shall be held before the Public Safety and Welfare Committee, 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 Permit. The Public Safety and Welfare Committee shall provide the Code Official and the permittee with a copy of the report. Either the Code Official or permittee 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's report and any arguments presented by the Code Official and permittee, finds the complaint to be true, or if there is no objection to a report recommending

a suspension, revocation or nonrenewal, the permittee 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 Permit is affected.

**K. Transferability.** Permits issued hereunder are personal to the applicant and are not transferable from person to person. Permits issued hereunder are issued to a particular site and are not transferable from place to place.

**L. Enforcement.** The Director of the Department of Neighborhood Services and Inspections shall have the primary responsibility to enforce this ordinance.

### 13.015 TEMPORARY CEMENT BATCH PLANTS

**A. License Required.** No person, party, firm or corporation shall operate a Temporary Cement Batch Plant, as herein defined, within the City without first obtaining a license therefor.

**B. Definition.** A Temporary Cement Batch Plant shall be defined as a place or facility which is not permanent in character and which is not intended to operate on a year round basis where cement is mixed with such as sand, stone, limestone, water or other substances for the purpose of forming concrete, which concrete will be used on or at premises other than the premises constituting the Temporary Cement Batch Plant.

**C. Fee and Term.** The license fee shall be Fifty (\$50.00) Dollars per license year, which fee shall not be prorated. The license term shall be from January 1 through December 31 of each year.

**D. Application.** Application for a license hereunder shall be to the Office of the City Clerk, on forms prescribed by the City Clerk, accompanied with the license fee.

**E. Issuance.** Licenses hereunder shall be issued by the Common Council following an investigation and report by the Health Department and Department of Neighborhood Services and Inspections to the Committee on Finance and following a report and recommendation of the Committee on Finance to the Common Council, to all applicants complying with the following criteria.

1. Applicants must conduct its operation in accordance with all applicable City, State and

Federal Laws, rules and regulations in an area properly zoned for such activity.

2. Applicants must either conduct the licensed operation in a fully enclosed facility, or in the alternative, conduct its operation situated in a manner and on a lot of such a size so that dust from the operation will not cause air or water pollution, cause personal injury or property damage, be a public or private nuisance or be a basis for annoyance or discomfort to the general public or to abutting property owners or occupiers.

**F. Notice to Aldermen.** Notice of all license applications shall be sent to the Alderman of the District wherein the licensed facility will be located.

**G. Prohibition and Penalty.** Any person, party, firm or corporation who operates a temporary cement batch plant without a proper and valid license or who operates or permits to be operated a licensed temporary cement batch plant in a manner which causes air or water pollution, causes personal injury or property damage, which is a public or a private nuisance, or which is a basis for annoyance or discomfort to the general public or to abutting property owners or occupiers, shall upon conviction, forfeit an amount of money not less than Twenty-Five (\$25.00) Dollars nor more than Five Hundred (\$500.00) Dollars per day of violation, each day of violation constituting a separate offense, together with the costs of the action, and in default of payment of such forfeiture and costs, shall be committed to the County Jail for a period not to exceed thirty (30) days.

**H. Revocation and Suspension.** The license may be revoked or suspended by the Common Council for violations of **§E.1.** and **2.**, hereof, for supplying false information resulting in the granting of this license, or for other just cause, following a public due process hearing to be held by the Committee on Finance.

### 13.02 PAWNBROKERS AND SECONDHAND ARTICLE AND JEWELRY DEALERS

**A. Definitions.** In this Section:

1. "**Article**" means any of the following articles except jewelry:

- a. Audiovisual equipment.
- b. Bicycles.
- c. China.
- d. Computers, printers, software and computer supplies.
- e. Computer toys and games.
- f. Crystal.

- g. Electronic equipment.
- h. Fur coats and other fur clothing.
- i. Ammunition and knives.
- j. Microwave ovens.
- k. Office equipment.
- l. Pianos, organs, guitars and other musical instruments.
- m. Silverware and flatware.
- n. Small electrical appliances.
- o. Telephones.
- p. Furniture.

**2. "Charitable organization"** means a corporation, trust or community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, literary or educational purposes or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

**3. "Customer"** means a person with whom a pawnbroker, secondhand article dealer or secondhand jewelry dealer or an agent thereof engages in a transaction of purchase, sale, receipt or exchange of any secondhand article or secondhand jewelry.

**4. "Jewelry"** means any tangible personal property ordinarily wearable on the person and consisting in whole or in part of any metal, mineral or gem customarily regarded as precious or semiprecious.

**5. "Pawnbroker"** means any person who engages in the business of lending money on the deposit or pledge of any article or jewelry, or purchasing any article or jewelry with an expressed or implied agreement or understanding to sell it back at a subsequent time at a stipulated price.

**6. "Person"** means any person, firm, partnership, association, corporation, company or organization of any kind.

**7. "Secondhand"** means owned by any person, except a wholesaler, retailer or secondhand article dealer or secondhand jewelry dealer licensed under this Section, immediately before the transaction at hand.

**8. "Secondhand Article Dealer"** means any person who primarily engages in the business of purchasing or selling secondhand articles, except when engaging in any of the following:

- a. Any transaction at an occasional garage or yard sale, an estate sale, a gun, knife, gem or antique show, a convention or an auction.

b. Any transaction entered into by a person while engaged in a business for which the person is licensed under **Sub. B.** or **D.** or while engaged in the business of junk collector, junk dealer, auctioneer or scrap processor as described in §70.995(2)(x), Wisconsin Statutes.

c. Any transaction while operating as a charitable organization or conducting a sale the proceeds of which are donated to a charitable organization.

d. Any transaction between a buyer of a new article and the person who sold the article when new which involves any of the following:

- (1) The return of the article.
- (2) The exchange of the article for a different, new article.

e. Any transaction as a purchaser of a secondhand article from a charitable organization if the secondhand article was a gift to the charitable organization.

f. Any transaction as a seller of a secondhand article which the person bought from a charitable organization if the secondhand article was a gift to the charitable organization.

**9. "Secondhand Jewelry Dealer"** means any person who engages in the business of any transaction consisting of purchasing, selling, receiving or exchanging secondhand jewelry, except for the following:

a. Any transaction at an occasional garage or yard sale, an estate sale, a gun, knife, gem or antique show, a convention or an auction.

b. Any transaction with a licensed secondhand jewelry dealer.

c. Any transaction entered into by a person while engaged in a business of smelting, refining, assaying or manufacturing precious metals, gems or valuable articles if the person has no retail operation open to the public.

d. Any transaction between a buyer of new jewelry and the person who sold the jewelry when new which involves any of the following:

- (1) The return of the jewelry.
- (2) The exchange of the jewelry for different, new jewelry.

e. Any transaction as a purchaser of secondhand jewelry from a charitable organization if the secondhand jewelry was a gift to the charitable organization.

f. Any transaction as a seller of secondhand jewelry which the person bought from a charitable organization if the secondhand jewelry was a gift to the charitable organization.

**B. License For Pawnbroker.** No person may operate as a pawnbroker unless the person first obtains a pawnbroker's license under this Section.

**C. License For Secondhand Article Dealer.**

1. Except as provided in §2., no person may operate as a secondhand article dealer unless the person first obtains a secondhand article dealer's license under this Section.

2. A person who operates as a secondhand article dealer only on premises or land owned by a person having a secondhand dealer mall or flea market license under §K. need not obtain a secondhand article dealer's license.

**D. License For Secondhand Jewelry Dealer.**

No person may operate as a secondhand jewelry dealer unless the person first obtains a secondhand jewelry dealer's license under this Section.

**E. License Application.** A person wishing to operate as a pawnbroker, secondhand article dealer or secondhand jewelry dealer in the City of Kenosha shall make application to the City Clerk for a license, accompanied by the required fee. The City Clerk shall furnish application forms, which shall require the following:

1. The applicant's name, place and date of birth and residence address.

2. The names and addresses of the business and of the owner of the business premises.

3. A statement as to whether the applicant has been convicted within the preceding ten (10) years of a felony or within the preceding five (5) years of a misdemeanor, statutory violation punishable by forfeiture or county or municipal Ordinance violation in which the circumstances of the felony, misdemeanor or other offense substantially relate to the circumstances of the licensed activity and, if so, the nature and date of the offense and the penalty assessed.

4. Whether the applicant is a natural person, corporation or partnership, and:

a. If the applicant is a corporation, the state where incorporated and the names and addresses of all officers and directors.

b. If the applicant is a partnership, the names and addresses of all partners.

5. The name of the manager or proprietor of the business.

6. Any other information that the Police Department or City Clerk may reasonably require.

**F. Investigation Of License Applicant.** Upon receipt of an application, the City Clerk shall send

copies thereof to the Department of Neighborhood Services and Inspections and the Kenosha Police Department. The Department of Neighborhood Services and Inspections, within ten (10) days of receiving such copy, shall make a report, in writing, to the Committee on Licenses/Permits as to whether the premises meet the requirements of this Chapter and the Building and Zoning Codes. The Kenosha Police Department shall investigate each applicant for a pawnbroker's, secondhand article dealer's or secondhand jewelry dealer's license to determine whether the applicant has been convicted within the preceding ten (10) years of a felony or within the preceding five (5) years of a misdemeanor, statutory violation punishable by forfeiture or county or municipal Ordinance violation described under E.3. and, if so, the nature and date of the offense and the penalty assessed. The Kenosha Police Department shall furnish the information derived from that investigation in writing to the City Attorney. The City Attorney, or his or her designee, shall examine said record and make a recommendation based thereon as to whether or not the license should be granted. Such reports shall be delivered to the City Clerk or Clerk for the Committee on Licenses/Permits 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, or such other action as may be appropriate.

**G. License Issuance.**

1. The Common Council shall grant the license if all of the following apply:

a. The applicant, including an individual, a partner or an officer, director or agent of any corporate applicant, has not been convicted within the preceding ten (10) years of a felony or within the preceding five (5) years of a misdemeanor, statutory violation punishable by forfeiture or county or municipal Ordinance violation in which the circumstances of the felony, misdemeanor or other offense substantially relate to the circumstances of being a pawnbroker, secondhand jewelry dealer, secondhand article dealer or secondhand article dealer mall or flea market owner.

b. With respect to an applicant for a pawnbroker's license, the applicant provides the City Clerk with a Five Hundred (\$500) Dollar bond, with at least two (2) sureties, for the observation of all City of Kenosha Ordinances relating to pawnbrokers.

2. No license issued under this Subsection shall be transferred.

3.a. Each license for a pawnbroker, secondhand article dealer or secondhand jewelry dealer is valid

from January 1 until the following December 31.

**b.** Each license for a secondhand article dealer mall or flea market is valid for two (2) years, from May 1 of an odd numbered year until April 30 of the next odd numbered year.

**H. Fees.** The license fees under this Section are:

1. For a Pawnbroker's License, \$210
2. For a Secondhand Article Dealer's License, \$27.50
3. For a Secondhand Jewelry Dealer's License, \$30
4. For a Secondhand Article Dealer Mall or Flea Market License, \$165 .

**I. License Revocation.** The Common Council of the City of Kenosha may revoke any license issued by it under this Section for fraud, misrepresentation or false statement contained in the application for a license or for any violation of this Section or §§943.34 (receiving stolen property), 948.62 (receiving stolen property from a child) or 948.63 (receiving property from a child), Wisconsin Statutes.

**J. Pawnbroker And Dealer Requirements.**

**1. Identification.** No pawnbroker, secondhand article dealer or secondhand jewelry dealer may engage in a transaction of purchase, receipt or exchange of any secondhand article or secondhand jewelry from a customer without first securing adequate identification from the customer. At the time of the transaction, the pawnbroker, secondhand article dealer or secondhand jewelry dealer shall require the customer to present one of the following types of identification:

- a. A County identification card.
- b. A State identification card.
- c. A valid Wisconsin motor vehicle operator's license.
- d. A valid motor vehicle operator's license, containing a picture, issued by another state.
- e. A military identification card.
- f. A valid passport.
- g. An alien registration card.
- h. A senior citizen's identification card containing a photograph.
- i. Any identification document issued by a state or federal government, whether or not containing a picture, if the pawnbroker, secondhand article dealer or secondhand jewelry dealer obtains a clear imprint of the customer's right index finger.

**2. Transactions With Minors.**

- a. Except as provided in **§b.**, no pawnbroker,

secondhand article dealer or secondhand jewelry dealer may engage in a transaction of purchase, receipt or exchange of any secondhand article or secondhand jewelry from any minor.

**b.** A pawnbroker, secondhand article dealer or secondhand jewelry dealer may engage in a transaction described under **§a.**, if the minor is accompanied by his or her parent or guardian at the time of the transaction or if the minor provides the pawnbroker, secondhand article dealer or secondhand jewelry dealer with the parent's or guardian's written and notarized consent to engage in the particular transaction.

**3. Records.**

**a.** Except as provided in **§b.**, for each transaction of purchase, receipt or exchange of any secondhand article or secondhand jewelry from a customer, a pawnbroker, secondhand article dealer or secondhand jewelry dealer shall:

**(1)** Require the customer to complete and sign, in ink, the appropriate form provided by the City of Kenosha or the Department of Agriculture. No entry on such form may be erased, mutilated or changed. The pawnbroker, secondhand article dealer or secondhand jewelry dealer shall retain an original and a duplicate of each form for not less than one (1) year after the date of the transaction except as provided in **¶5**, and during that period shall make the duplicate available to any law enforcement officer for inspection at any reasonable time.

**(2)** Take a color photograph, a digital image or a video recording of:

- (a)** Each customer involved in a billable transaction.
- (b)** Every item pawned or sold.

If a photograph is taken, it must be at least two inches in length by two inches in width and must be maintained in such a manner that the photograph can be readily matched and correlated with all other records of the transaction to which they relate. Such photographs must be available to the Chief of Police, or the Chief's designee, upon request. The major portion of the photograph must include an identifiable facial image of the person who pawned or sold the item. Items photographed must be accurately depicted.

If a digital image is taken, it must be in a format specified by the police department, electronically cross-referenced to the reportable transaction they are associated with. Such images must be available to the Chief of Police, or the Chief's designee, upon request. The major portion of the image must include an identifiable facial image of the person who pawned or sold the item. Items recorded by digital image must be accurately depicted.

If a video photograph is taken, the video camera must focus on the person pawning or selling the item so as to include an identifiable image of that person's face. Video recordings must be available to the Chief of Police, or the Chief's designee, upon request. Items photographed by video must be accurately depicted. Video photographs must be electronically referenced by time and date so they can be readily matched and correlated with all other records of the transaction to which they relate.

Photographs, digital images and video recordings shall be retained by the pawnbroker, secondhand article dealer or secondhand jewelry dealer for not less than one (1) year after the date of the transaction.

The Licensee must inform the person that he or she is being photographed and/or videotaped by displaying a sign of sufficient size in a conspicuous place on the premises.

**b.** For every secondhand article consigned to the secondhand article dealer for sale on the secondhand article dealer's premises, the secondhand article dealer shall keep a written inventory. In this inventory the secondhand article dealer shall record the name and address of each customer, the date, time and place of the transaction and a detailed description of the article which is the subject of the transaction. The customer shall sign his or her name, address and telephone number on a declaration of ownership of the secondhand article identified in the inventory and shall state that he or she owns the secondhand article. The secondhand article dealer shall retain an original and a duplicate of each entry and declaration of ownership relating to the purchase, receipt or exchange of any secondhand article for not less than one (1) year after the date of the transaction except as provided for in ¶5., and shall make duplicates of the inventory and declarations of ownership available to any law enforcement officer for inspection at any reasonable time.

**4. Holding Period.**

**a.** Except as provided in §d. and f., any secondhand article or secondhand jewelry purchased or received by a pawnbroker shall be kept on the pawnbroker's premises or other place for safekeeping for not less than thirty (30) days after the date of purchase or receipt, unless the person known by the pawnbroker to be the lawful owner of the secondhand article or secondhand jewelry recovers it.

**b.** Except as provided in §d. and f., any secondhand article purchased or received by a secondhand article dealer shall be kept on the

secondhand article dealer's premises or other place for safekeeping for not less than twenty-one (21) days after the date of purchase or receipt.

**c.** Except as provided in §d. and f., any secondhand jewelry purchased or received by a secondhand jewelry dealer shall be kept on the secondhand jewelry dealer's premises or other place for safekeeping for not less than twenty-one (21) days after the date of purchase or receipt.

**d.** If a pawnbroker, secondhand article dealer, or secondhand jewelry dealer is required to submit a report under par. (5) concerning a secondhand article or secondhand jewelry purchased or received by the pawnbroker, secondhand article dealer, or secondhand jewelry dealer and the report is required to be submitted in an electronic format, the secondhand article or secondhand jewelry shall be kept on the pawnbroker's, secondhand article dealer's or secondhand jewelry dealer's premises or other place for safekeeping for not less than ten (10) days after the report is submitted.

**e.** During the period set forth in §§a., b., c. or d., the secondhand article or secondhand jewelry shall be held separate and apart and may not be altered in any manner. The pawnbroker, secondhand article dealer or secondhand jewelry dealer shall permit any law enforcement officer to inspect the secondhand article or secondhand jewelry during this period. Within twenty-four (24) hours after a written request of a law enforcement officer during this period, a pawnbroker, secondhand article dealer or secondhand jewelry dealer shall make available for inspection any secondhand article or secondhand jewelry which is kept off the premises for safekeeping. Any law enforcement officer who has reason to believe any secondhand article or secondhand jewelry was not sold or exchanged by the lawful owner may direct a pawnbroker, secondhand article dealer or secondhand jewelry dealer to hold that secondhand article or secondhand jewelry for a reasonable length of time which the law enforcement officer considers necessary to identify it.

**f.** Sections a. to d. do not apply to any to any of the following:

**(1)** A coin of the United States, any gold or silver coin or gold or silver bullion.

**(2)** A secondhand article or secondhand jewelry consigned to a pawnbroker, secondhand article dealer or secondhand jewelry dealer.

**5. Report To Law Enforcement Agency.**

**a.** Within twenty-four (24) hours after purchasing or receiving a secondhand article or secondhand jewelry, a pawnbroker, secondhand article dealer or secondhand jewelry dealer shall make available, for inspection by a law enforcement officer, the original form completed under ¶3.a. or the

inventory under ¶3.b., whichever is appropriate.

b. Every pawnbroker, secondhand article dealer or secondhand jewelry dealer shall, within seven(7) days after receiving the secondhand article or secondhand jewelry, send to the Chief of Police a photocopy of the original form completed under ¶3.a.

c. Notwithstanding §19.35(1), Wisconsin Statutes, a law enforcement agency receiving the original form or inventory or a declaration of ownership may disclose it only to another law enforcement agency.

d. Effective no later than sixty (60) days after the police department provides a pawnbroker, secondhand article dealer, or secondhand jewelry dealer with the current version of the software utilized by the police department, a pawnbroker, secondhand article dealer, or secondhand jewelry dealer must submit every reportable transaction to the police department daily by transferring it electronically to the police department in the manner designated by the Kenosha Police Department. All required records must be transmitted completely and accurately after the close of business each day in accordance with the standards and procedures established by the police department.

(1) The pawnbroker, secondhand article dealer or secondhand jewelry dealer must display a sign of sufficient size in a conspicuous place on the premises, which informs all patrons that all transactions are reported daily to the police department.

(2) If a pawnbroker, secondhand article dealer or secondhand jewelry dealer is unable to successfully transfer the required reports electronically, the pawnbroker, secondhand article dealer or secondhand jewelry dealer must provide the police department with printed copies of all reportable transactions by 12:00 noon the next business day.

(3) If the problem is determined to be in the pawnbroker's, secondhand article dealer's or secondhand jewelry dealer's system and is not corrected by the close of the first business day following the failure, the pawnbroker, secondhand article dealer or secondhand jewelry dealer must provide the required reports as required by this Ordinance, and shall be charged a daily reporting failure fee of \$10.00 until the error is corrected; or, if the problem is determined to be outside the pawnbroker's, secondhand article dealer's or secondhand jewelry dealer's system, the pawnbroker, secondhand article dealer or secondhand jewelry dealer must provide the required reports pursuant to the Ordinance and resubmit all such transactions electronically when the error is corrected.

(4) Regardless of the cause or origin of the technical problems that prevented the pawnbroker, secondhand article dealer or secondhand jewelry dealer from uploading the reportable transactions,

upon correction of the problem, the pawnbroker, secondhand article dealer or secondhand jewelry dealer shall upload every reportable transaction from every business day the problem has existed.

(5) The provisions of this section notwithstanding, the police department may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.

**6. Exception For Customer Return Or Exchange.** Nothing in this Subsection applies to the return or exchange, from a customer to a secondhand article dealer or secondhand jewelry dealer, of any secondhand article or secondhand jewelry purchased from the secondhand article dealer or secondhand jewelry dealer.

**7. Altered Serial Number.** No pawnbroker, secondhand article dealer or secondhand jewelry dealer may receive any item of property that possesses an altered or obliterated serial number or operation identification number or any item of property that has had its serial number removed.

**8. Business at Only One Place.** A License under this chapter authorizes the Licensee to carry on its business only at the permanent place of business designated in the License. However, upon written request, the Chief of Police, or the Chief's designee, may approve an off-site locked and secured storage facility. The Licensee shall permit an inspection of the facility in accordance with this Chapter. All provisions of this Chapter regarding record keeping and reporting apply to the facility and its contents. Property shall be stored in compliance with all provisions of the city code. The Licensee must either own the building in which the business is conducted, and any approved off-site storage facility, or have a lease on the business premises that extends for more than six (6) months.

**9. Payment.**

a. All payments made by a pawnbroker who lends money on the deposit or pledge of any article or jewelry or who purchases any article or jewelry shall be made by check or automated clearing house.

b. All payments of more than Twenty-Five Dollars (\$25.00) made by a secondhand article dealer for the purchase of any secondhand article shall be made by check or automated clearing house.

c. All payments made by a secondhand jewelry dealer for the purchase of any jewelry shall be made by check or automated clearing house.

**K. Secondhand Article Dealer Mall Or Flea Market.**

1. The owner of any premises or land upon

which two (2) or more persons operate as secondhand article dealers may obtain a secondhand article dealer mall or flea market license for the premises or land if the following conditions are met:

**a.** Each secondhand article dealer occupies a separate sales location and identifies himself or herself to the public as a separate secondhand article dealer.

**b.** The secondhand article dealer mall or flea market is operated under one (1) name and at one (1) address, and is under the control of the secondhand article dealer mall or flea market license holder.

**c.** All sales are completed at a central location under the control of the secondhand article dealer mall or flea market license holder, who maintains a record of all sales.

**2.** The secondhand article dealer license holder or flea market licensed holder and each secondhand article dealer operating upon the premises or land shall comply with **§J.**

**L. Penalty.**

**1.** Upon conviction for a first offense under this Section, a person shall forfeit not less than Fifty (\$50) Dollars nor more than One Thousand (\$1,000) Dollars.

**2.** Upon conviction for a second or subsequent offense under this Section, a person shall forfeit not less than Five Hundred (\$500) Dollars nor more than Two Thousand (\$2,000) Dollars.

**M**

**Severability.** Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid or be repealed, it shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid or repealed.

**13.025 CHARITABLE, RELIGIOUS AND POLITICAL SOLICITATIONS**

It shall be unlawful for any person, firm or corporation to solicit or cause to be solicited contributions of money, goods or services to be utilized for a charitable, religious or political purpose in a residentially zoned area without a prearranged appointment during the hours of 8:00 P.M. to 8:00 A.M.

In the event that it is determined by a Court of law that the City cannot constitutionally prohibit such solicitation during the hours of 8:00 P.M. to 9:00 P.M., then the hours of prohibited solicitation shall be

the hours of 9:00 P.M. to 8:00 A.M.

**13.03 PEDDLERS**

**A. Purpose.** The purpose and intent of this Ordinance is to regulate unsolicited contacts with the citizens of this City designed to influence the citizen to buy or accept periodicals, goods, merchandise or services.

**B. License Required.** It shall be unlawful for any person to engage in the business of a "Peddler" or perform the act of "Peddling", as herein defined, within the City, without first having obtained a license from the City Clerk.

**C. License Not Required.** The following shall be excluded herefrom:

**1.** Persons selling to or taking orders from any retail or wholesale business establishment.

**2.** Persons selling or taking orders for agricultural products grown by said persons within the State of Wisconsin.

**3.** Persons under the age of 18 who sell or take orders for a newspaper which said persons deliver within the City where said sale of order occurs in the normal course of delivering said newspaper.

**4.** Persons who under the state license engage in the real estate or insurance business.

**5.** Persons selling or taking orders by prearranged appointment.

**6.** Persons selling at art, craft, and antique shows, at rummage fairs, and at trade shows.

Persons herein excluded are not excused from complying with any other Ordinances, laws, rules or regulations of the City.

**D. Definitions.**

**1. "Peddler"** shall be defined as any natural person who for personal profit or gain sells or takes orders for periodicals, goods, food, beverage, merchandise or services within the City, irrespective of the delivery or performance date where the sale or order occurs within the City, upon premises which are not owned or which are not rented or leased for a period of thirty (30) or more consecutive days by said person, or from any vehicle as defined by Section 340.01(74), Wisconsin Statutes.

**2.** A person of "**good moral character**" shall be defined as one who has:

- a. Conducted himself in an honest, law abiding and truthful manner,
- b. Honored his oral and written promises, guarantees and warranties,
- c. Filed a full, complete and accurate application for a license,
- d. Abided by local, state and federal laws governing the activity herein licensed.
- e. Not been convicted of a felony or of a misdemeanor involving violence or moral turpitude during the license period or two years prior to the date of application for a license, unless pardoned therefore.

**E. Application.** Application for said license shall be made to the City Clerk on forms supplied by the City Clerk. The application shall contain a statement of the periodicals, goods, food, beverage, merchandise or service which will be sold, or for which orders will be taken, a statement of the manner in which said activity or business will be conducted, and a list of the last three (3) municipalities in which a similar business or activity, as herein regulated, was conducted by the applicant. There shall be a waiting period of seventy-two (72) hours, not including weekends and holidays commencing at 8:00 A.M. of the day following the date at which a properly completed application was filed with the City Clerk during which period of time the application, at the request of the City Clerk, shall be investigated by the Police Department and by the Health Department where food, drinks, or produce is involved; and, in appropriate circumstances, the State of Wisconsin Department of Agriculture, Trade and Consumer Protection. Should the investigation indicate that the applicant appears to be of good moral character, the City Clerk shall issue a license. Should the investigation indicate that the individual is not of good moral character, the license shall be denied in writing, with a special statement or the reasons for a denial. The applicant shall be given an opportunity to appeal the City Clerk's denial of said license to the Committee on Finance by filing a written request for such a hearing with the City Clerk. Should the individual fail to appear at said hearing, the License shall be denied. Should the individual appear, the Committee on Finance will determine the propriety of granting or denying of a license by a specific finding of fact and conclusion.

**F. Photographs.** With every application, applicant shall submit two (2) identical color photographs of applicant alone, sufficiently recent to be a good likeness of applicant (taken within the last six (6) months), and 2 inches x 2 inches in size. The image size, measured from the bottom of applicant's chin to the top of his/her head (including hair), should not be less than one (1") inch and not more than 1-3/8 inches. The photographs must be color, clear,

with a full front view of applicant's face, and printed on thin paper with plain light (white or off-white) background. The photographs must be taken in normal street attire, without a hat, head covering, or dark glasses, unless a signed statement is submitted by the applicant verifying the item is worn daily for religious purposes, or a signed doctor's statement is submitted verifying the item is used daily for medical purposes. Photographs retouched so that applicant's appearance is changed are unacceptable. Snapshots, most vending machine prints, and magazine or full length photographs are unacceptable. Digitized photographs must meet the unacceptably stated qualifications and will be accepted for use at the discretion of the City Clerk.

**G. License Fee.** The license fee shall be Two Hundred Fifty (\$250.00) Dollars per person, per license period, or any portion thereof. The full license fee must be submitted with the application in reasonable denominations of lawful United States tender.

**H. License Period.** The License period shall be for a one (1) year period from October 1 to September 30th of each year with no proration of the License fee.

**I. Insurance Requirement.** All licensees who will use a motor vehicle in the performance of activities herein licensed must present to the City Clerk, with his or her application, proof of automobile liability insurance which meets the minimum requirements of the State Financial Responsibility Law.

**J. Motor Vehicle Inspection, Report, and Identification.** All licensees who use a motor vehicle in the performance of activities herein licensed are subject to the inspection and reporting requirements hereinafter set forth:

1. Motor vehicles shall, at the cost and expense of applicant/permit holder, be inspected by an Automotive Service Excellence (A.S.E.) Certified Technician, certified in the areas of "brakes" and "suspension and steering", who shall fill out, date and sign a Safety and Maintenance Inspection Report and provide a copy of their certification. The Report shall verify that the motor vehicle inspected is safe for operation on City streets. The Report shall be filed with the City Clerk/Treasurer with the permit application/renewal or at any time prior to which a motor vehicle will be utilized, or at any time directed by the Police Chief or designee thereof, based upon personal observation of a police officer indicating a lack of required maintenance. A copy of the Report shall be kept in the motor vehicle at all times used in the performance of activities herein licensed and shall

be made available for review at any time directed by the Police Chief or designee thereof.

2. Every motor vehicle shall be conspicuously and legibly marked on both sides of the vehicle with the name of the owner in letters not less than two and one-half (2-1/2") inches in height and in a color contrasting with the color of the vehicle.

**K. Driver's License.** All licensees who will use a motor vehicle in the performance of activities herein licensed shall hold a valid driver's license, a copy of which shall be filed with the City Clerk/Treasurer.

**L. Identification.** All licensees shall conspicuously wear their license on their person while engaged in the licensed business or activity and shall produce the same upon the demand of any law enforcement officer. It shall be a violation of this Ordinance to fail to comply with this Subsection even though a person may be otherwise validly licensed hereunder.

**M. Limitation.** It shall be unlawful for any person, firm or corporation to engage in peddling in a residentially zoned area without a prearranged appointment during the hours of 8:00 P.M. and 8:00 A.M.

**N. NonTransferable.** Each license issued shall be individual and nontransferable.

**O. Enforcement.** The Police Department, and where food or produce is involved, the Health Department, shall have the responsibility for enforcing this Ordinance.

**P. Suspension, Revocation or NonRenewal of License.** This license may be suspended, revoked or not renewed upon a ten (10) day advance written notice being furnished to the licensee by the City Attorney or City Clerk charging the licensee with a failure to be of good moral character as herein defined, or with a failure to comply with the terms of this Ordinance, or with pursuing licensed activities in a manner injurious or threatening to be injurious to the public health, safety, welfare and tranquility of the City. Hearing upon said notice shall be before the Finance Committee or the Common Council. There shall be a written Findings of Fact and Conclusions of Law which shall, if possible, be mailed to the licensee at the address given at the hearing, within 5 working days following the date of the hearing.

**Q. Restriction.** Peddling may not be engaged in within the right of way of the Kenosha Civic Veterans Parade route during the Kenosha Civic Veterans Parade. Peddling may not be engaged in

within eight hundred (800') feet of any permanent business retailing similar or competing products located in a permanent building or structure, except:

1. For food vendors possessing all required licenses and permits who are temporarily and incidentally in the vicinity of a permanent business retailing similar or competing products located in a permanent building or structure.

2. Sidewalk sales.

3. Organizations not licensed under this Ordinance.

### 13.031 USE OF UNLICENSED PEDDLERS PROHIBITED

It shall be unlawful for any person, party, firm or corporation to hire, contract with, or otherwise utilize the service of a peddler, as defined in §13.03 of the Code of General Ordinances, who is not licensed when and as required by said Ordinance. Each day an unlicensed peddler performs such services shall constitute a separate violation hereof.

### 13.035 PEDDLER'S STANDS AND OTHER STRUCTURES AS OBSTRUCTIONS

No person, firm, party or corporation shall place or maintain a stand or structure from which peddling, as defined in §13.03, Ordinances, is engaged in or which are used for any other purposes, upon any City property, including street right-of-ways, sidewalks and lawn park areas, without first having obtained permission of the Common Council therefor. Peddler's stands shall not be authorized within eight hundred (800') feet of any permanent business retailing similar or competing products located in a permanent building or structure and peddler's stands and other structures shall not be authorized where likely to create a public or private nuisance, or otherwise disturb the peace or obstruct vehicular or pedestrian traffic.

A person shall be deemed to have a "stand", although there is no structure associated therewith, whenever a person remains in any one location for more than one (1) hour within an eight (8) hour period of time. A "location" shall be defined as any City property including street rights-of-way, sidewalks and lawn park areas. A "right-of-way" shall be defined as being within one hundred fifty (150') feet of any street or highway intersection measured from the center point thereof and shall also be defined as being within a right-of-way on either side of a street or highway from intersection to intersection.

Applications for permits shall be filed with the

City Clerk on forms approved by the City Clerk, accompanied by a fee of One Hundred (\$100) Dollars. Permits shall be nonproratable and shall be for the period October 1 through September 30 of each year. A separate permit shall be required for each "stand".

Person(s) peddling from a stand as defined herein shall not be required to hold an individual peddler's license as required by **§13.03**.

**A. Review.** In reviewing a peddler stand permit application, the Common Council shall consider whether the proposed stand transactions are:

(1) Customarily associated with public use and enjoyment of the location proposed for the stand.

(2) In furtherance of public use and enjoyment of the location proposed for the stand.

(3) Incidental to an appropriate recreational or cultural use of the location proposed for the stand.

**B. Operation.** Peddler stands issued a permit pursuant to Subsection A shall be subject to the following operations requirements:

(1) Location. The stand location shall be limited to the area described in the permit application and approved by the Council.

(2) Term. An approved location shall be limited to thirty (30) consecutive days. Each stand may be relocated subject to the filing of a new permit application during the term of the permit and upon Common Council approval.

(3) Hours of Operation. Peddling is permitted at a stand location between the hours of 9:00 a.m. and 8:00 p.m.

(4) Special Events. Vendors associated with City approved special events shall not be required to obtain a peddler stand permit for the approved special event.

(5) Utilities. Vendors which require use of public utilities shall pay utility charges as designated by Superintendent of Parks.

(6) Noise. Noise levels emanating from the stand shall be kept to a minimum and shall be reasonable so as not to disturb the peace and quiet of those in the vicinity, including but not limited to residents, merchants and customers. Vendors shall be subject to all applicable City ordinances regarding noise and amplification and this ordinance shall not be interpreted to expand or contradict those other ordinances. In the event of a conflict, the more strict regulation or ordinance shall apply.

### **13.036 TRESPASS FOR COMMERCIAL PURPOSES**

It shall be unlawful for any person, party, firm or corporation to sell or take orders for or to permit the sale or the taking of orders for any merchandise, goods or service from any private property where the

owner or lessee having jurisdiction thereover has not provided written permission for said activities.

### **13.037 TRESPASS-PEDDLERS AND SOLICITORS**

It shall be unlawful for any person, party, firm or corporation to peddle, within the meaning of **§13.03** of the Code of General Ordinances, or to solicit within the meaning of **§13.025** of the Code of General Ordinances, upon any private property which is posted with a sign, in a manner sufficient to provide notice, prohibiting either or both of said activities.

### **13.04 CONVENIENT CASH BUSINESSES**

**A. Intent and Purpose.** It is the purpose of this Ordinance to regulate the hours of operation of all Convenient Cash Businesses. The majority of existing Convenient Cash Businesses, as defined in **Subsection B.** below, are located near residential areas where business hours may impact the residents of the area. Convenient Cash Businesses, like other financial businesses, do not provide services that must be available twenty-four (24) hours per day. The Ordinance is deemed for the benefit of the health, safety and welfare of the public.

**B. Definition. "Convenient Cash Business(es)"**, also referred to as "payday loan business", "title for cash business", "check cashing business", or any similar enterprise, shall mean any business licensed pursuant to Sections 138.09 or 218.05, Wisconsin Statutes, which provides nontraditional, short-term consumer loans by accepting a check or title, holding the check or title for a period of time before negotiating or presenting the check or title for payment, and paying to the issuer an agreed upon amount of cash, or refinancing or consolidating such a transaction.

#### **C. Hours of Operation.**

1. No physical premises [as defined by its Occupancy Permit] in which a Convenient Cash Business holding a license issued pursuant to Section 138.09, Wisconsin Statutes, is operated may be open between the hours of 7:00 P.M. and 8:00 A.M.

2. No physical premises [as defined by its Occupancy Permit] in which a Convenient Cash Business holding a license issued pursuant to Section 218.05, Wisconsin Statutes, is operated may be open between the hours of Midnight (12:00 A.M.) And 5:00 A.M.

3. Any Convenient Cash Business holding a license issued pursuant to Section 138.09, Wisconsin Statutes, and a license issued pursuant to Section 218.05, Wisconsin Statutes, that operates under both

licenses at the same physical premises [as defined by its Occupancy Permit] shall be subject to the hours of operation set forth in **Subsection C.1.** above.

### 13.06 NATURAL GAS

The Wisconsin Electric Power Company is authorized to occupy the streets, highways, and thoroughfares of the City for purposes of installing and maintaining natural gas lines and supplying natural gas.

### 13.07 TAXICABS AND DRIVERS

**A. Definitions.** The term taxicab as used herein shall include all vehicles carrying passengers for hire, except such vehicles as operate on established routes and regulated by the Public Service Commission of Wisconsin; and excepting also such vehicles as are rented to be driven by the renter or his agent, and except vehicles operated solely as funeral cars and except ambulance services licensed by the State, and excepting limousine services which charge on the basis of an hourly rate for the use of a car and driver and which require the reservation of a car and driver at least twenty-four (24) hours in advance of use, and excepting a private trolley service, utilizing no more than one (1) motor vehicle which runs on standard tires, which is used for tours, and which is insured in accordance with the minimum limits of the State's Motor Vehicle Financial Responsibility Laws, and vehicles licensed and operating as Handicapped-Elderly Vehicles, as defined in **Section 13.09 A.2.** of the Code of General Ordinances.

**B. Permit Fees and Term.** Every person, firm or corporation who shall engage in taxicab business shall pay a permit fee of Seventy-five (\$75.00) Dollars per vehicle operated in such business.

All permits issued shall expire on the 30th day of June following their issue and may be renewed upon payment of the above fees.

#### C. Issuance of Permits.

**1. Application.** Any person, firm, association or corporation wishing to obtain a permit to engage in the business of conveyance of persons for hire within the City of Kenosha, shall present to the City Clerk a written application therefor, stating the name and address of applicant and number and type of vehicles proposed to be operated.

The City Clerk shall present all applications to the Common Council, together with all necessary reports and documents, who shall either grant or

deny the applicant's request.

**2. Insurance.** No permit to operate a taxicab shall be issued unless:

**a.** The owner shall have filed with the City Clerk an insurance policy, by an insurance company licensed to do business in the State of Wisconsin, providing coverage for liability of a minimum of Twenty-Five Thousand Dollars (\$25,000.00) for injury or death to any one person, and subject to the same limit per person, a maximum liability of Fifty Thousand Dollars (\$50,000.00) for the injury or death of any number of persons in any one accident and a maximum liability of Ten Thousand (\$10,000) Dollars for property damage in any one accident, containing the provision for Fifty Dollars (\$50.00) deductible insurance on the property damage only; or,

**b.** A certificate of insurance acceptable to the State of Wisconsin.

**c.** Said policy or certificate shall further provide that the same cannot be cancelled until thirty (30) days notice of such cancellation shall be given to the City Clerk. The cancellation or other termination of any insurance policy or above mentioned certificate shall automatically revoke and terminate all permits issued for the taxicab covered by such insurance policy.

**3. City Clerk to Issue.** Before any such permit shall be issued, the applicant therefor shall pay to the City Clerk of the City of Kenosha the amount of money fixed by this Ordinance for such permit. The applicant shall, upon complying with all the provisions herein continued, be entitled to and shall receive from the City Clerk a written permit signed by such Clerk and countersigned by the Mayor, and attested by the seal of the City of Kenosha, authorizing such person, firm, association or corporation to carry on this business of conveying passengers for hire, and shall in addition thereto receive from the City Clerk the permit plate or plates hereinafter provided for.

#### 4. Plates.

**a. Issuance.** Upon approval of the application and payment of the fee, the City Clerk shall issue a permit for each vehicle entitled thereto.

**b. Transfer From Car to Car by Same Owner.** Upon proof to the City Clerk that a vehicle for which a permit has been issued will not be used as a taxicab, the Clerk, without fee, may by the proper notation on said permit, transfer the same to any other taxicab owned by the permit holder, provided that the taxicabs to which the permit is to be transferred meets all requirements of inspection as hereinafter provided.

In the event a taxicab becomes unsafe or temporarily inoperative for need of repairs or lubrication the owner may transfer with the approval of the Police Department the card mentioned in ¶3. of **C. above** to another taxicab for a period of not exceeding thirty (30) days; and provided the substitute vehicle has received police inspection and found safe within 30 days prior to the substitution.

**D. Regulations.**

**1. Inspection and Reports.** Taxicabs are subject to the inspection and reporting requirements hereinafter set forth.

Taxicabs shall, at the cost and expense of applicant/permit holder, be inspected by an Automotive Service Excellence (A.S.E.) Certified Technician, who shall fill out, date and sign a Safety and Maintenance Inspection Checklist found in **Appendix 13.07 D.1.** of this Ordinance and provide a copy of their certification. The report shall be filed with the City Clerk/Treasurer at the following intervals: with the permit application, six (6) months after the permit was issued; after the taxicab was involved in an accident and damaged to any extent and prior to the taxicab being placed back into service; and at any time directed by the Police Chief or designee thereof, based upon personal observation of a police officer indicating a lack of required maintenance.

The permit holder must provide written notice to the City Clerk/Treasurer of any of the following occurrences within three (3) working days of having knowledge of the occurrence:

- A conviction of a permit holder for a violation of any State law or local Ordinance arising out of taxicab operation;
- Any driver's license suspension, revocation or restriction on a permit holder, whether or not related to taxicab operation;
- Any death or personal injury, or property damage caused by a permit holder and arising out of taxicab violation;
- Any death or personal injury, or damage or theft of personal property to a passenger in a taxicab operated by a permit holder;
- Any violation of a State law or local Ordinance by a permit holder, whether or not arising out of the operation of a taxicab, involving an offense against person or property, or an offense involving alcohol beverages, controlled substances, prostitution or gambling.

A taxicab may not be put in service until the required Safety and Maintenance Inspection has

been completed, the taxicab has been rated as satisfactory, and the report has been timely filed with the City Clerk/Treasurer. Each day of noncompliance shall be a separate violation of this Ordinance, and shall subject the permit to revocation, nonrenewal or suspension.

The permit holder, for the full period of operation of each taxicab, shall keep a written record, with invoices, dated and signed, documenting work, respecting all maintenance work and accident repair work. These written records shall be made immediately available by the permit holder for inspection and copying upon request of the Kenosha Police Department or City Attorney's Office.

The Police Department may placard and order taken out of service any taxicab which has not been timely inspected, satisfactorily passed the safety inspection, and been documented as such with documents filed in the office of the City Clerk/Treasurer.

**2. Identification.** Every taxicab shall be conspicuously and legibly marked on both sides of the vehicle with the name of the owner, together with the owner's cab number in letters and numbers not less than two and one-half (2-1/2) inches in height and in color contrasting with the color of the vehicle.

**E. Expiration, Renewal Lapse, Transfer of Permits, Surrender, and Cancellation.**

**1.** All permits issued hereunder shall expire on the 30th day of June following their issue, and may be renewed upon payment of the fees hereinafter prescribed.

**2. Lapse of Permits.** Sixty-five (65%) percent of all Taxicab Permits must be in use as of June 30th of each year; 100 percent of all permits must be in use as of December 31st of each year. The Police Department shall ascertain on each of the above mentioned dates how many of such vehicles are in use or usable, and report the same to the Council at its next regular meeting. The Council without notice may revoke sufficient permits so that the above percentages will be met.

**3. Transfer of Permits.** No Taxicab Permit shall be transferred unless the permit holder is selling his entire taxicab business and all his or its taxicabs, and then only upon application to and with the permission of the City Council. If the Council permits the transfer, the purchaser shall pay to the City a fee of Twenty (\$20.00) Dollars per cab.

**F. Revocation of Permits.** The City Clerk shall revoke any permit upon notification from the Police Department that the vehicle is unfit and unsafe for

use as a vehicle. Council may for cause revoke any permit hereunder.

**G. Driver's License.**

**1. Qualifications.** Every person driving a taxicab shall be licensed as such. Each applicant for a driver's license must:

- a. Be 18 years of age or over.
- b. Be able to read and write the English language.
- c. Be neat and not addicted to the use of intoxicating liquors.
- d. Give such information in writing as may be required by the Police Department, all of which shall be filed with the City Clerk as a permanent record.
- e. Have a valid Wisconsin Driver's License except in the case of an applicant who is a member of a branch of the Armed Services; then said applicant must have a valid Driver's License from the State which he declares as his residence, and must be residing within Kenosha County while in service.

It shall be a violation of this Ordinance for any individual to drive a taxicab without possessing a State issued driver's license, in good standing, valid in the State of Wisconsin, even if such individual is licensed by the City, and each day of operating a vehicle without a State issued driver's license, in good standing, valid in the State of Wisconsin shall be deemed to be a separate violation. It shall further be a violation of this Ordinance for any taxicab company to employ or lease a cab to a driver who does not possess, in good standing, a State issued driver's license valid in the State of Wisconsin and each day that a taxicab company shall permit a taxicab to be driven by a driver who does not have, in good standing, a State issued driver's license valid in the State of Wisconsin shall be deemed to be a separate violation.

**2. Issuance of License.**

a. The City Clerk shall present all applications together with a report and recommendation of the Police Department to the Council who shall either grant or deny the license. If the Council shall grant the license, the City Clerk shall issue a license along with a copy of this Ordinance to the applicant. The license shall bear the name, address, age, signature and photograph of the applicant. Every driver licensed under this Ordinance shall post his driver's license in such a place as to be in full view of all passengers while such driver is operating a taxicab. In the event of the revocation or other termination of the license, the license shall be returned to the City Clerk.

b. Upon the applicant's request, the City Clerk may issue a temporary taxi driver's license to any applicant who has been a resident of Kenosha County for five (5) years immediately prior to filing their application, who qualifies under **Section 13.07 G.1.** of this Ordinance, and who has two (2) or fewer convictions for Speeding 1-10 miles per hour over the limit within five (5) years of the date of the application. Any other convictions for traffic or nontraffic violations shall disqualify the applicant for a temporary taxi driver's license.

**3. Fee and Term.** The fee for such drivers license shall be Twenty (\$20) Dollars for the original license and Fifteen (\$15) Dollars for each annual renewal thereafter. For the license term commencing May 1, 2003, the fee for such drivers license shall be Thirty (\$30.00) Dollars for the original license and Thirty (\$30.00) Dollars for each annual renewal thereafter. The license shall expire on the April 30th next following its issuance. To renew a license, the same procedure shall be required as is required for the original license.

**4. Regulation of Drivers and Rates of Fares.**

a. **License, Ordinance Exhibited.** Each licensed driver shall upon demand of a police officer exhibit his/her license and a copy of this Ordinance for inspection.

b. **Obstructing Traffic.** No driver shall operate his vehicle in such manner as to unduly obstruct traffic or to constitute a nuisance to other vehicles and pedestrians.

c. **Attendance on Vehicles.** Every driver shall remain in his cab or immediately adjacent to his cab while the same is parked or standing on stand.

d. **Solicitation.** No driver shall solicit passengers at the usual stopping place of trackless trolleys and gasoline buses.

e. **Paratransit Service.** Drivers shall not be obligated to give individual service to the patron who first engages the taxicab. Drivers are permitted to provide paratransit service to as many passengers as the taxicab will safely allow.

f. **Disputed Fares.** Drivers shall submit all disputes as to fares to the officer in charge of the police station. The City Council, may, in their discretion, revoke the license of any driver found guilty of overcharging passengers.

g. **Refusal to Carry Passengers.** No driver shall refuse to convey a passenger to any destination requested by said passenger within the City Limits of Kenosha, Wisconsin.

h. **Rates and Fares.** No person, firm or corporation holding a Taxicab Permit shall charge for passengers picked up from and/or delivered to a location within the City of Kenosha, more than the advertised and posted rates established by the Permit holder. Rates shall be calculated by taking a base

or "curb fare", for each zone holder may have a policy requiring Map payment. which shall be a minimum fare established by the Permit holder, and adding a "zone fare", which shall be a consistent amount, also to be determined by the Permit holder, to be added for each new zone entered, after leaving the point of origin (pickup). Fare zones are established as shown and depicted on the Zone Map of the City of Kenosha appended to this Section, a copy of which is on file in the Office of the City Clerk/Treasurer. Permit holders shall charge for trips beyond the above described zones according to a schedule of rates which shall also be on file with the City Clerk/Treasurer's Office.

zone holder may have a policy requiring Map payment.

The rate structure established under this Section shall not apply to contract health care providers (i.e., specialized medical vehicles), or service providers operating under any program of the Federal, State or local government to provide transportation services to persons with impaired driving ability.

Extra passengers, picked up and discharged at same location, may be charged according to the following schedule:

- 12 years of age and older . . . . . \$1.00
- Under 12 years of age . . . . . \$0.75
- Infants - Nil

Permit holders shall be authorized to charge an additional One (\$1.00) Dollar for an extra stop for a passenger not over one block off the direct route and not over three minutes waiting time.

There may be an added charge of Two (\$2.00) Dollars by the driver for parcel pickup. An added charge of Two (\$2.00) Dollars may be charged for delivery. An additional One (\$1.00) Dollar may be charged if the passenger requests the parcels, bundles or groceries to be carried beyond the door.

Permit holders shall be authorized to charge not in excess of Twenty (\$20.00) Dollars per hour or \$0.25 per minute after the first three minutes of waiting.

Areas annexed to the City after the passage of this Ordinance not located within one of the zones shall retain the "County Rates", fare amounts filed with the City Clerk/Treasurer.

All rates specified above are the maximum rates which shall be charged, and there shall be no minimum rates established by this Ordinance. Permit holders may provide the City Clerk/Treasurer with a minimum of two (2) working days notice of any proposed change in rates of fare for "curb" fare and/or for each zone entered.

Rates of fare shall be posted in all vehicles used to provide taxi services in a conspicuous place and manner. Passengers calling to request taxicab service shall be quoted a maximum rate for the requested service at the time of the call. All passengers shall be provided with a written or printed receipt for taxicab services upon demand. Permit

**5. Policy & Procedure For Disciplinary Actions Relative To Taxi Driver's License.**

**a. Definitions.**

(1) **LICENSE** means a Taxi Driver's License authorized under this **Section 13.07**.

(2) **LICENSEE** shall mean the holder of a License.

(3) **COMMITTEE** shall mean the Committee on Licenses/Permits.

**b. License Investigations.** The following may initiate requests for investigations before the Committee which may result in orders, suspensions, nonrenewals, delays in License issuance or revocation:

- The Mayor;
- The Common Council;
- The Committee;
- The State of Wisconsin;
- An Alderman;
- The Police Chief;
- The City Attorney; and,
- Any resident of the City of Kenosha.

Requests for investigations shall contain a brief statement of the alleged misconduct. The request shall be forwarded by the requesting party to the City Clerk who shall place said request on the Common Council Agenda for referral to the Committee or directly on the Committee Agenda with the permission of the Committee Chairperson. The City Clerk or the Committee Secretary shall order the Licensee to attend the Committee meeting at which said matter will be reviewed. Documents which form a basis for a request for an investigation shall be available for the inspection of the Licensee.

The Committee may reconsider any evidence or argument presented or made before it, whether or not obtained in or related to the written request for an investigation.

The Committee, upon requesting and receiving a recommendation from the City Attorney's Office, shall recommend to the Common Council:

- (1) That no action be taken;
- (2) That the License shall be suspended, not

renewed or revoked following Statutory notice and opportunity to be heard, where the criteria for such action in **Subsection D.** is met;

**(3)** That an order be issued and served upon the Licensee requiring that certain action be taken as a condition of maintaining said License and providing notice that revocation may be the penalty for failure to strictly comply with the letter and spirit thereof.

The Committee shall have the obligation of notifying the Licensee of any further proceedings before the Common Council.

The Common Council may affirm, deny or modify any recommendations of the Committee.

**c. License Review Upon Renewal Application.** Any License which is the subject of renewal shall, prior to License expiration, be reviewed in accordance with the procedure for License investigation contained in **Subsection B.**, and in accordance with such additional procedures as the Committee may require. License renewal applications which are granted, shall be granted subject to applicable demerit points, if any.

**d. Criteria For License Revocation, NonRenewal Or Suspension.** Any Licensee who within any 730 day period, equals or exceeds a total of one hundred (100) demerit points for the below described conduct committed by Licensee, 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) Ten (10) Points.** Violations of Chapter 347, Wisconsin Statutes, except for violations of §§347.35, 347.36, 347.486 through 347.489.

**(2) Twenty (20) Points.**

**(a)** Violations of Chapter 343, Wisconsin Statutes, except for §343.44.

**(b)** Violations of Chapter 346, Wisconsin Statutes, except for §§346.62 through 346.73 or 346.57 where it is alleged that Licensee exceeded the speed limit by greater than ten (10) miles per hour.

**(c)** Violations of Chapters **7, 11, 13, or 23** of the Code of General Ordinances for the City of Kenosha, not specifically scheduled elsewhere in this demerit scale.

**(d)** Violations of Administrative Code MVD-5.

**(e)** Violations of §943.24, 943.50 or Chapter 947, Wisconsin Statutes.

**(3) Forty (40) Points.** Violations of §346.57,

Wisconsin Statutes, where it is alleged that the Licensee exceeded the speed limit by more than ten (10) miles per hour, but less than twenty (20) miles per hour.

**(4) Fifty (50) Points.**

**(a)** Violations of §343.44, Wisconsin Statutes.

**(b)** Violations of §346.57, Wisconsin Statutes, where it is alleged that the Licensee exceeding the speed limit by more than twenty (20) miles per hour.

**(c)** Violations of §§346.68, 346.69, and 346.70, Wisconsin Statutes.

**(d)** Violations of Chapter 943, other than those specifically listed elsewhere in this schedule, or §§943.215, 943.25, 943.55, 943.60, 943.61, 943.62 and 943.70, Wisconsin Statutes.

**(5) Seventy-five (75) Points.**

**(a)** Violations of §346.63(1), Wisconsin Statutes, [1st offense in five (5) years.]

**(b)** Violations of §346.04(3), Wisconsin Statutes, [Fleeing].

**(6) One Hundred (100) Points.**

**(a)** Violations of §346.63(1), Wisconsin Statutes, [2d or subsequent offense with a five (5) year period as calculated by statute.]

**(b)** Violations of §346.63(2), Wisconsin Statutes, [Causing Injury By Intoxicated Use].

**(c)** Violations of §346.67, Wisconsin Statutes, [Hit and Run to an Attended Vehicle].

**(d)** Violations of Chapter 940, Wisconsin Statutes, except §§940.04, 940.07, 940.12 and 940.15.

**(e)** Violations of Chapter 941, Wisconsin Statutes, except §941.34.

**(f)** Violations of Chapter 943, Wisconsin Statutes, except §§943.012, 943.02-943.06, 943.10 and 943.34.

**(g)** Violations of Chapter 161, Wisconsin Statutes.

**(h)** Violations of Federal criminal law circumstances of which the charge substantially relates to the licensed activity.

**(7)** Any points which are assessed or assessable above shall be doubled if the violation occurred during the course of their employment.

**(8) Discretionary Demerit Points.**

Nonscheduled offenses shall be the subject of such number of demerit points as designed by the Common Council, within its discretion.

**(9) Offenses Not Considered.** No offenses will

be considered respecting new applications for demerit points if the date of the violation is more than five (5) years prior to the date of application, except a felony which is material to the licensed activity.

**(10) Out-of-State Traffic Offenses.** Reported violations of companion statutes for out-of-state traffic offenses, which are substantially similar to those violations listed above, shall be assigned the same number of demerit points.

**e. 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 d.** 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.

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

**g. New Licenses Granted Subject To Demerit Points.** New Licenses may be granted subject to such number of demerit points as the Common Council, in its discretion, may deem appropriate, irrespective of the nature of the offense, where the Common Council has concern as to the moral character and business responsibility of the applicant, which is insufficient for License denial. New Licenses, if granted, shall be subject to twenty-five (25) demerit points in the event a License application is filed in violation of **§1.22 A.** of the Code of General Ordinances respecting untrue, incorrect and/or incomplete application.

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

**i. Disciplinary Hearings.** Disciplinary hearings, including nonrenewal, suspension and revocation hearings, shall be held before the

Committee, 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 shall provide 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's 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.

**j. Judgment Of Conviction, As Prima Facie Proof Of Violation.** The judgment of conviction of any Licensee, or employee or agent thereof, in any Municipal, State or Federal Court, irrespective of whether obtained following 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.

**k. Application For Determination Of Demerit Points.** Any Licensee or party entitled to initiate a request for an investigation under **Subsection B.** hereof, 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.

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

**m. 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.

**H. Hours of Service.** All persons, firms, associations or corporations holding a Taxicab Permit shall offer continuous telephone service for twenty-four (24) hours each day.

### 13.08 TAXICABS FROM OTHER JURISDICTIONS

**A. Prohibition.** No taxicab, as defined in §13.07 A., of the Code of General Ordinances, not licensed by the City of Kenosha under §13.07 of the Code of General Ordinances shall:

1. Solicit taxicab passengers on a fee basis within the City or;
2. Accept for transportation, on a fee basis, any passengers destined to the municipality in which such taxicab is licensed and then only when such transportation has been arranged for in advance by telephone or written order.

**B.** Nothing in this Ordinance shall be construed to prohibit any taxicab licensed by another municipality from coming into the City to discharge passengers accepted for transportation outside of the City limits. However, while said taxicab, licensed by another municipality, is in the City, no light or sign shall be used to indicate that said taxicab is subject for hire within the City. Further, while in the City said taxicab shall have displayed at or near the vehicle's windshield a sign printed in English, in block letters not less than two (2) inches in height, indicating "Not for Hire".

### 13.09 TOBACCO SALES

#### A. Definitions in this Section:

**"Cigarette"** - "Cigarette" means any roll of tobacco wrapped in paper or any substance other than tobacco.

**"Distributor"** - "Distributor" means any of the following:

1. Any person who acquires unstamped cigarettes from the manufacturer thereof, affixes stamps to the packages or other containers, stores them and sells them to other permittees or to retailers for resale. He or she may also acquire stamped cigarettes from another permittee for such sales;
2. Any person engaged in the business of selling tobacco products in this State who brings, or causes to be brought into this State from outside the

State any tobacco products for sale;

3. Any person who makes, manufactures or fabricates tobacco products in this State for sale in this State; or,

4. Any person engaged in the business of selling tobacco products outside this State who ships or transports tobacco products to retailers in this State to be sold by those retailers.

**"Identification Card"** - "Identification Card" means any of the following:

1. A license containing a photograph issued under Chapter 343, Wisconsin Statutes; or,
2. An identification card issued under §343.50, Wisconsin Statutes; or,
3. An identification card issued under §125.08, Wisconsin Statutes.

**"Jobber"** - "Jobber" means any person who acquires stamped cigarettes from manufacturers or distributors, stores them and sells them to retailers for resale.

**"Manufacturer"** - "Manufacturer" means any of the following:

1. Any person who manufactures cigarettes for the purpose of sale; or,
2. Any person who manufactures and sells tobacco products.

**"Retailer"** - "Retailer" means any person licensed pursuant to **Subsection B.** herein.

**"School"** - "School" has the meaning given in §118.257(1) (c), Wisconsin Statutes.

**"Subjobber"** - "Subjobber" means any person other than a manufacturer or distributor, who buys tobacco products from a distributor and sells them to a person other than the ultimate consumers.

**"Tobacco Products"** - "Tobacco Products" means cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but "tobacco products" does not include cigarette as defined under "cigarette".

**"Vending Machine"** - "Vending Machine" is any mechanical device which automatically dispenses cigarettes upon the deposit therein of

specified coins in payment for such cigarettes.

**"Vending Machine Operator"** - "Vending Machine Operator" means a person who acquires stamped cigarettes from manufacturers or permittees, stores them and sells them through the medium of vending machines which he or she owns, operates or services and which are located on premises which are owned or under the control of other persons.

**B. Cigarette and Tobacco Products Retailer License.**

1. No person shall in any manner, or upon any pretense, or by any device, directly or indirectly sell, expose for sale, possess with intent to sell, exchange, barter, dispose of or give away any cigarettes or tobacco products to any person not holding a license as herein provided or a permit under Sections 139.30 to 139.41 or 139.79, Wisconsin Statutes, without first obtaining a license from the City of Kenosha or being employed by a Cigarette and Tobacco Products Retailer Licensee while on the licensed premises.

2. Upon filing of a proper written application, a license shall be issued on July 1 of each year or when applied for and continue in force until the following June 30, unless sooner revoked.

3. Each such license shall name the licensee and specifically describe the premises where such business is to be conducted. Such licenses shall not be transferable from one person to another, nor from one premises to another.

4. The annual license fee shall be One Hundred (\$100.00) Dollars per license year or part of a license year. The fee is not prorated.

5. Every licensed retailer shall keep complete and accurate records of all purchases and receipts of cigarettes and tobacco products. Such records shall be preserved on the licensed premises for two (2) years in such a manner as to insure permanency and accessibility for inspection and shall be subject to inspection at all reasonable hours by authorized State and local law enforcement officials.

**C. Restrictions.**

1. No retailer, manufacturer, distributor, jobber or subjobber, no agent, employee or independent contractor of a retailer, manufacturer, distributor, jobber or subjobber and no agent or employee of an independent contractor may sell or provide for nominal or no consideration cigarettes or tobacco products to any person under the age of eighteen (18), except as provided in Section 938.983(3),

Wisconsin Statutes. A vending machine operator is not liable under this paragraph for the purchase of cigarettes or tobacco products from his or her vending machine by a person under the age of eighteen (18) if the vending machine operator was unaware of the purchase.

2. No retailer, manufacturer, distributor, jobber, subjobber, no agent, employee or independent contractor of a retailer, manufacturer, distributor, jobber or subjobber and no agent or employee of an independent contractor may provide for nominal or no consideration cigarettes or tobacco products to any person except in a place where no person younger than eighteen (18) years of age is present or permitted to enter unless the person who is younger than eighteen (18) years of age is accompanied by his or her parent or guardian or by his or her spouse who has attained the age of eighteen (18) years.

3.a. A retailer shall post a sign in areas within his or her premises where cigarettes or tobacco products are sold to consumers stating that the sale of any cigarette or tobacco product to a person under the age of eighteen (18) is unlawful under this Section and Section 938.983, Wisconsin Statutes.

b. A vending machine operator shall attach a notice in a conspicuous place on the front of his or her vending machines stating that the purchase of any cigarette or tobacco product by a person under the age of eighteen (18) is unlawful under this Section and Section 938.983, Wisconsin Statutes, and that the purchaser is subject to a forfeiture of not to exceed Twenty-five (\$25.00) Dollars.

4.a. A retailer or vending machine operator may not sell cigarettes or tobacco products from a vending machine unless the vending machine is located in a place where the retailer or vending machine operator ensures that no person younger than eighteen (18) years of age is present or permitted to enter unless he or she is accompanied by his or her parent or guardian or by his or her spouse who has attained the age of eighteen (18) years.

b. Notwithstanding **Subsection 4.a.**, no retailer may place a vending machine within five hundred (500') feet of a school.

5. No manufacturer, distributor, jobber, subjobber or retailer, or their employees or agents, may provide cigarettes or tobacco products for nominal or no consideration to any person under the age of eighteen (18).

6. No retailer may sell cigarettes in a form other than as a package or container on which a stamp is affixed under Section 139.32(1), Wisconsin Statutes.

**D. Defense of Retailer, Manufacturer and**

**Distributor.** Proof of all of the following facts by a retailer, manufacturer or distributor who sells cigarettes or tobacco products to a person under the age of eighteen (18) is a defense to any prosecution for a violation of **Subsection C.1.:**

1. That the purchaser falsely represented that he or she had attained the age of eighteen (18) and presented an identification card.

2. That the appearance of the purchaser was such than an ordinary and prudent person would believe that the purchaser had attained the age of eighteen (18).

3. That the sale was made in good faith, in reasonable reliance on the identification card and appearance of the purchaser and in the belief that the purchaser had attained the age of eighteen (18).

**E. Possession of Cigarettes or Tobacco Products By Minors.**

1. Except as permitted in **Subsection C.2.**, no person under eighteen (18) years of age may do any of the following:

- a. Buy or attempt to buy any cigarette or tobacco product.
- b. Falsely represent his or her age for the purpose of receiving any cigarette or tobacco product.
- c. Possess any cigarette or tobacco product.

2. A child may purchase or possess cigarettes or tobacco products for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer licensed herein.

3. A law enforcement officer shall seize any cigarette or tobacco product involved in any violation of **Subsection E.** committed in his or her presence.

**13.10 CHRISTMAS TREES**

**A. License.** No person, firm, or corporation shall open, maintain, operate or conduct any place for the purpose of storing, selling or displaying for sale any Christmas trees until he first shall have applied for and secured a license so to do at the location specified in such license.

**B. Definitions.** For the purpose of this Ordinance, words and phrases shall remain as follows: **Christmas Trees** shall mean those trees of the varieties and kinds used for decorative purposes, usually during the Christmas season, and which have been cut and no longer attached to the soil; **public street** shall mean all that property set aside for street purposes or street right-of-ways, and shall include sidewalks, curbs, shoulders, parking strips

and alleys.

**C. License Fee.** The license fee shall be the sum of Fifty (\$50.00) Dollars. Said license shall be valid only to the 3rd day of January following its issue. Each location at which Christmas Trees are stored, displayed or sold shall require a separate license. No license shall be transferable either to person or person or place to place.

**D. Application.** Applications for license shall not be received by the City Clerk after December 1 in any year, and shall be made upon forms furnished by the City Clerk and give applicants name, residence, usual business, and the name of the owner of the premises for which a license is sought. The license fee and deposit required in Paragraph **F.** below shall accompany the application. No license shall be issued except upon the approval of the Fire Department.

**E. Regulations.**

1. The license shall be prominently and at all times displayed on the premises licensed.

2. No Christmas trees shall be displayed, stored or sold on any public street.

3. All licensed premises shall be maintained in such manner as to eliminate, in so far as possible, any fire hazard.

4. No trees which have become dried out shall be kept on the premises.

5. At the expiration of the license or whenever the premises shall cease to be used further for the storage or sale of Christmas trees, the licensee shall cause all trimmings, cuttings, trees, and debris to be removed from said premises and disposed of in a lawful manner.

**F. Deposit.** As a condition precedent to the granting of a license the applicant shall deposit with the City Clerk the sum of \$40.00, which amount shall be returned to the licensee upon the expiration of such license and after the inspection of the premises by the Fire Department and certification by said department that the premises have been left in a clean condition and that no fire hazard exists thereon by reason of Christmas trees or parts thereof. If the licensee fails to properly clean the premises upon removal or fails to maintain the premises in a manner eliminating any fire hazard as necessary in the opinion of the Chief of the Fire Department, the Fire Department is authorized to enter upon said premises and remove or destroy or cause to be removed or destroyed such Christmas trees or parts thereof as may create a fire hazard and the cost of such removal shall be deducted from the amount placed on deposit with the City Clerk.

If the applicant is engaged in an established and permanent business in Kenosha and has paid personal property taxes due in the year of his application, the Mayor may waive the above mentioned deposit. Such waiver, however, shall not relieve the licensee from compliance with other provisions of this Ordinance, and he shall be obligated to reimburse the City for all cost in cleaning the premises and removing fire hazards as hereinbefore provided.

**G. Revocation.** The Mayor may cancel or revoke any license if, in his opinion, any of the provisions of this Ordinance have been violated. Any licensee, whose license has been revoked, shall have the right to a hearing before the City Council by application therefor within five days after notice that such license has been revoked.

### 13.11 FARMER MARKETS

**A. Establishment of Farmer Markets.** Farmer Markets for the City of Kenosha shall be and are hereby established at such public places as may be determined by the Council, during the period of June 1 through November 30.

**B. Use of Market. By Whom.** No person shall sublet or transfer his space or stall so rented to such person to any other party, and no person shall have any use whatever of any such stall or space except the party purchasing the same or his employees; and no person shall use any of the public streets, alleys, or other public places in said City as standing places for teams, wagons, or automobiles, for the sale of fruits, vegetables or other products usually disposed of in market places, except those portions of streets, or alleys that the Committee on Public Welfare may designate. Nothing herein contained however shall prohibit licensed hucksters from peddling from house to house within the City. No person shall have a right to use said markets without complying with the provisions of this Chapter and with the rules and regulations that may from time to time be made in relation to the same as in this Chapter provided for.

**C. Superintendent of Markets.** The City Sealer shall be the Superintendent of Markets and as such shall have full administrative jurisdiction and control of Farmer Markets and full authority to enforce this Section (13.11).

**D. Rental Fee For Stalls.** The rental fee for each eight (8) foot stall shall be at the rate of Four (\$4) Dollars per diem and shall be limited to three (3) stalls per family at each of the market places.

**E. Assignment of Stalls.** All farmers wishing to rent a stall at any of the market places from June

1 through October 31 must make application therefor to the Superintendent of Markets. The rental fee for a term from June 1 through October 31 shall be Fifty (\$50) Dollars per stall to be paid between January 1 and June 1. The rental fee from October 31 through November 30 shall be One (\$1) Dollar per diem.

All renewals for stalls must be made by May 1 after which stalls will be declared vacant and available for rent to others.

All stalls not designated by an (X) may be rented for the daily fee.

Any leased stall not occupied by 9 A.M. may be sublet for the balance of the day to regular or seasonal renters as the Superintendent of Markets may decide.

**F. Market Hours.** The starting time shall be 6:00 A.M. and the closing time shall be 12:00 noon except on Saturdays the closing time shall be 1:00 P.M. No person shall display any wares or produce before said opening hour nor after the hour set for closing.

**G. Cleaning of Stalls.** The littering of the grounds at said market is hereby prohibited and the owner or seller of each load is required to pick up and remove from the ground all paper, refuse or anything whatsoever lying upon the ground as the result of his use thereof before he leaves the market. The Superintendent shall have the right to expel anyone from said market providing he finds that said person is attempting to sell produce which is not fit for use, or if said person is trying to wrongfully influence prices while on said markets.

**H. Scales.** All scales used by occupants of market stalls must be inspected and sealed by the City Sealer before put in use at any of the City markets.

**I. Relocation of Permit or Denial of Use of Market.** For the violation of any of the provisions of this Ordinance, the Superintendent may revoke the permit to use any stall or may deny the issuance of any future permit for one (1) year from date of violation. An appeal from such revocation or denial of permit may be had to the Committee on Public Welfare upon payment of Five (\$5) Dollars. Upon such appeal the Market Committee shall hold a public hearing thereon at which time all parties in interest may appear and give evidence.

**J. Rules and Regulations.** The Committee on Public Welfare together with the Superintendent shall from time to time make such necessary rules and regulations for the daily working and care of the

markets as in their judgment may from time to time be necessary.

**13.12 TOWING SERVICE**

**A. Purpose.** Motor vehicles must, of necessity, be removed from public or private property at the request of the City Police Department without the owner's permission, where said vehicles: are disabled, are abandoned, constitute a public or private nuisance, are illegally parked, are evidence, are stolen, or are or were in the ownership or control of a prisoner or dead or disabled person who is unable to personally arrange for towing. The above service shall be known as "**Class I Tows**". Other motor vehicles which become disabled may be operated by parties who need to have their vehicle towed but who have no preference for a tower. In such cases, the public convenience requires the Police Department to arrange for towing services. Such service shall be known as "**Class II Tows**". Further, the convenience of the City requires that disabled City vehicles be towed promptly upon request for a reasonable fee. Such service shall be known as "**Class III Tows**".

In order to effectuate the above, it is necessary for towers who tow at the request of the City Police Department to be licensed by the City to insure that all tows will be made by adequately insured towers, who operate safe and efficient tow trucks, and who possess sufficient equipment to be able to respond to the vast majority of all Police Department calls for towing service, irrespective of the degree of difficulty of the call. Licensing will insure that towers have a sufficient amount of equipment as will enable City licensed towers to service City interest concurrently with the service of private sector customers. Licensing will also insure that towers are in a position to and will accept all calls for service in order to provide efficient services and in order to prohibit any tower from skimming off only the most desirable business and that towers have adequate and reasonably safe storage areas which are conveniently accessible to City residents. Licensing will insure tower responsiveness to the needs of the City and of City residents.

**B. Definitions.** The following words, as used herein, shall mean:

1. "**Person**" shall be any party, person, firm, corporation, partnership, association or other legal entity.
2. "**Preference Tow**" shall mean any motor vehicle accident or disablement where a motor vehicle operator, requiring towing service, expresses a preference as to a named wrecker.
3. "**No Preference Tow**" shall mean any motor

vehicle accident or disablement where a motor vehicle operator, requiring towing service, expresses no preference as to a named wrecker.

4. "**Wrecker**" shall mean one engaged in the business of or offering the services of a motor vehicle tower.

5. "**Licensee**" shall be one who has been issued a license by the Common Council under this Ordinance to perform towing services for or at the request of the City of Kenosha or its Police Department.

6. "**Tow**" shall mean to remove a motor vehicle from a given place, whether temporarily or permanently disabled, by use of a vehicle designed or customarily used for that purpose, to a place of storage pending the repair, salvage, recovery, sale or disposal of said vehicle.

7. "**Assignment**" shall mean a call or referral by or from the City or its Police Department to a wrecker requesting towing services hereunder licensed.

8. "**Storage lot**" shall mean premises which are subject to use, in accordance with local and state laws, rules and regulations, as a place to temporarily keep towed vehicles pending the final disposition thereof. Storage lots must be completely enclosed with a six (6) foot high fence which is of such a nature as will offer reasonable protection for vehicles and their contents against theft and or vandalism. Any side of the enclosing fence which is viewable from a public thoroughfare must be constructed in such a manner as will screen from view the vehicles stored within the fenced enclosure. The storage lot shall provide outside storage for a minimum of thirty (30) vehicles and inside storage for a minimum of two (2) vehicles. The storage lot shall be located at the wrecker's (licensee's) principal place of business.

9. "**Principal place of business**" shall mean the address which is listed in the telephone book or with the telephone company as the location at which business telephones are located, and it shall mean the place at which tow trucks are routinely kept when not in operation, and the location of the central business office.

10. "**Class I, II and III Tows**" - See **Subsection A.** of this Ordinance.

**C. License Required.** No person or wrecker shall engage in Class I, II and III tows within the City or at the request of the City, or its Police Department, without first having obtained a license therefor from the Common Council. Further, no person shall be assigned no preference tows without first being licensed hereunder. The acceptance of a license shall constitute a declaration and agreement of the licensee to perform licensed activities subject to the terms and conditions of this Ordinance. The acceptance of a license constitutes a commitment of the licensee to perform towing services hereunder

and shall not be deemed a means of or authorize the business or practice of a designated licensee referring assignments to another license. A licensed tower may not relocate his principal place of business or storage lot without first obtaining the permission of the Common Council following review thereof by the Public Safety & Welfare Committee. City towing licenses may not be transferred or assigned without prior approval of the Common Council following review thereof by the Public Safety & Welfare and Finance Committees.

**D. Application.** Application for such license shall be made, in writing, to the City Clerk upon such forms as shall be prescribed by the City Clerk. The City Clerk, when the application is completed as herein specified, shall refer said application to the Finance Committee for recommendation, as soon as such referral is practicable. The applicant must provide the following information as a condition of said application being considered for approval: Name, legal existence if other than an individual; names of partners or associates, if a partnership or association; names of officers if a corporation; place of incorporation if a corporation; address of principal place of business and business phone number; distance from City limits proper of principal place of business if address is outside of the City limits; description of security for storage lot; number of vehicles which can be kept on storage lot; number of towing vehicles in service at time of application with their description, including gross vehicle weight, winch capacity and equipment, vehicle identification number and state motor vehicle license number of all towing vehicles. The application shall also contain a copy of any leases or agreements applicant may have for the use of a storage lot where applicant does not own such a lot and a copy of any leases for tow trucks. The applicant shall have the continuing responsibility to update all information herein requested as a condition of maintaining this license.

**E. Standards for License Issuance.** The Common Council and its licensing committee may not consider or grant a license to an applicant who does not meet the following minimum requirements:

1. Own or exclusively lease for the license period two (2) tow trucks - one (1) of which shall have a minimum four (4) ton winch capacity and one (1) of which shall have a minimum GVW of 12,000 pounds and a minimum eight (8) ton winch. As an alternative for the tow truck with a minimum GVW of 12,000 pounds and a minimum eight (8) ton winch a flat bed truck with a minimum GVW of 20,000 pounds and a minimum four (4) ton winch, with a compatible hydraulic combination of eight (8) tons, may be substituted. Each truck shall be equipped with a two-way commercial radio, lights and such other

safety devices as will comply with Chapter 347, Wisconsin Statutes, a rubber tow sling, a dolly, 100 feet of tow cable, and equipment for cleaning up glass and debris at an accident scene. City assignments must be given top priority as a condition of holding a license.

2. Ownership of or exclusive lease for the license period of a storage lot as herein defined.

3. The principal place of business and storage lot must be within the City, or if outside of the City, within one (1) air mile of the City limits proper, excluding any City islands.

4. Execution of an indemnity and hold harmless agreement protecting the City from the payment of any claims for property damage, personal injury or death, and from all expenses, attorneys fees and court costs associated with said claims resulting from or arising out of the licensees operation under this Chapter, including, but not limited to, the towing and storage of vehicles.

5. An inspection certificate from the Chief of Police indicating that the applicant's storage lot meets the requirements of this Ordinance.

6. A licensed carrier authority from the State of Wisconsin.

7. Towing equipment which is adequate to perform towing services in a reasonable and workmanlike manner.

8. Certificates of insurance providing a minimum of ten (10) days written notice to the City before any such policy is amended or cancelled, which shows statutory worker's compensation for employees, insurance on the tow trucks written in comprehensive form, providing minimum limits of bodily injury liability and property damage liability, as required by the State of Wisconsin for obtaining carrier authority, and which shows protection of the City and the licensee against all claims arising from injuries to persons or damage to property of others arising out of any act or omission of the licensee or its agents, relative to performance of work for which the license is granted.

9. Proof of law enforcement authority from the State of Wisconsin, should said authority be provided for by the State.

**F. Inspection.** All towing vehicles shall be inspected, at the cost and expense of the applicant/license holder, by an Automotive Service Excellence (A.S.E.) Certified Technician, who shall fill out, date and sign a Safety Maintenance Certification in the form found in **Appendix 13.12 F.** of this Ordinance. Such inspection shall be completed not

more than forty-five (45) days prior to the date of review of the license application by the Finance Committee. Proof of correction of all discrepancies noted in the Safety Maintenance Certification shall be submitted with the application. The license shall not be issued until all such discrepancies are corrected. The Police Department shall have authority to inspect any towing vehicle and/or towed vehicle at licensee's storage lot without notice during regular business hours and with reasonable notice at other times.

**G. Employment Prohibition.** Licensees shall not employ on a full or part time basis any law enforcement officer or any civilian employee of any law enforcement agency.

**H. License Fee.** The license fee shall be One Hundred (\$100) Dollars per year, paid at the time of application. License fees shall not be prorated.

**I. License Year.** All licenses shall expire on the 30th day of June of each year.

**J. Standard Rate Schedule.** Licensees shall maintain records of the amounts charged for tows and shall charge no more than the following rates for their services while towing for or at the request of the City:

**1. Towing vehicles under 7,000 pounds:** 8:00 A.M. to 6:00 P.M., Monday through Saturday, \$75; 8:00 A.M. to 6 P.M., Sundays and Holidays, \$85; 6:00 P.M. to 8:00 A.M., Monday through Saturday, \$85; 6:00 P.M. to 8:00 A.M. Sundays and Holidays, \$85. Towing vehicles over 7,000 pounds, the rate shall be the prevailing rate in the community.

**2. Dollies, if required:** \$25; **Flatbeds,** the base rate specified in **Subsection 1.** above, plus \$25.

**3. Labor per man per hour, other than driver,** 8:00 A.M. to 6:00 P.M., Monday through Saturday, \$30 with a \$15 minimum; 6:00 P.M. to 8:00 A.M., Sundays and Holidays, \$40 per hour with a \$20 minimum.

**4. Winching, up-righting, shoveling, sweeping, waiting,** 8:00 A.M. to 6:00 P.M., Monday through Saturday, \$30 per hour with a \$15 minimum; 6:00 P.M. to 8:00 A.M., Sundays and Holidays, \$40 with a \$20 minimum.

**5. Towing of City owned vehicles,** 8:00 A.M. to 6:00 P.M., \$15; 6:00 P.M. to 8:00 A.M., and on Sundays and Holidays, \$25 without any additional charges.

**6. Remove and replace transmission linkage,** \$15.

**7. For indoor storage,** \$25 per day; **for outdoor storage,** \$20 per day, with a one (1) day minimum.

**8. No charge to the City for towing junked or abandoned vehicles.**

**9. Vehicles which are towed pursuant to this Ordinance may be claimed at the storage lot upon which they are stored during regular business office hours, Monday through Saturday.**

The vehicle owner or other party contracting or benefiting from said towing services shall be responsible to the tower for the charges specified in **Subsections 1., 2., 3., 4., 6. and 7.** above, and the City, or its employees or officers, shall not be charged or liable for said services, except as provided in **Subsection 5.** above.

**K. Maintenance of Vehicles and Equipment.** Vehicles used in towing operations shall be maintained in a safe and roadworthy condition and shall be equipped with well maintained towing equipment which is adequate to perform towing services in a reasonable and workmanlike manner.

**L. Twenty-Four Hour Service.** Towing service must be provided twenty-four (24) hours a day, each and every day of the year. The failure of a licensee to perform licensed services shall be grounds for revocation or suspension of this license. Any licensee who fails to respond to or accept three (3) calls during any license year shall be called before the Finance Committee and Common Council to explain said failure. If said failure is not justified, the licensee shall be put on probation for the balance of the license year. Any further failure to perform services during the same license year shall be grounds for suspension or revocation of this license.

**M**  
**Assignment by Rotation.** Towing service, herein relevant, shall be on a rotation basis based upon three separate lists, one list for each Class of Tows: Class I, Class II and Class III. Each list shall contain the names of all licensees and assignments therefrom shall be administered by the City of Kenosha Police Department. Assignments shall be deemed waived by non-response or nonacceptance. Licensees may, under extraordinary circumstances, arrange for another licensee to fulfill their assignment.

**N. Violations.** Any wrecker who attempts to or who does influence the orderly rotation of assignments, or who otherwise violates the provisions of this Ordinance, shall be subject to revocation, termination or suspension of their license, following

written notice of a hearing containing a statement of the complaint made against the licensee and the name of the party requesting the hearing, and a hearing before the Finance Committee, with the recommendation of the Finance Committee being submitted to the Common Council for final action thereon. A hearing shall be held upon the request of the Chief of Police, City Attorney, Chairman of the Finance Committee or Chairman of the Public Safety & Welfare Committee following a preliminary investigation by either of them indicating that a complaint which has been brought to their attention has merit or is worthy of a full investigation.

**O. Hours of Towing for City.** Licensees shall not be required to move junked or abandoned vehicles from public or private property except during daylight working hours, 7:00 a.m. to 5:00 p.m., Monday through Saturday, unless such vehicle is creating an immediate hazard.

**P. Personal Belongings in Towed Vehicle.** Section 349.13 (5)(b), Wisconsin Statutes, is incorporated herein by reference.

**Q. Supervision.** The Committee on Public Safety & Welfare shall have jurisdiction to adjust disputes and promulgate rules and regulations which will effect the efficient and just operation of this Ordinance. A copy of any rules and regulations promulgated hereunder shall be open to public inspection at the Office of the City Clerk and at the Police Department.

**R. Temporary Licenses.** In the event of emergency circumstances requiring temporary towing capacity over and above the towing capacity available through existing licensed "wreckers", the Chairman of Safety & Welfare may grant one or more temporary licenses, for a period not to exceed ten (10) days, for "Class I" and "Class III Tows". The fee for such a license shall be Ten (\$10) Dollars. The provisions of this Ordinance shall apply to such temporary licenses, however, the Chairman of Safety & Welfare may waive the storage lot requirement of this Ordinance, the requirement of this Ordinance providing for a minimum number of tow trucks, and the requirement of this Ordinance providing that the principal place of business and storage lot be within the City, or if outside of the City, within one (1) air mile of the City limits proper, excluding any City islands, when said waiver is required in order to obtain adequate temporary towing capacity. When temporary licenses are issued, they shall be filed with the City Clerk and a notice of the issuance thereof shall be sent to the Mayor and Common Council.

**S. Determination of Need.**

**1. Finding.** The Common Council of the City of Kenosha finds that on the effective date of this Ordinance that:

**a.** Towing services are being adequately performed in the City by the City licensed wreckers.

**b.** The granting of towing licenses over and above the actual need therefor will result in a deterioration of towing services in the City as a given volume of towing business is required to enable licensees to finance the high quality of equipment, facilities and services required under this Ordinance.

**c.** The licensing of wreckers over and above need will create problems in the administration and enforcement of this Ordinance, creating unnecessary expense for the City and providing a potential for a deterioration of towing services in the City.

**2. Additional Licenses.** No towing license applications will be accepted or processed under this Ordinance unless the Common Council first finds and determines that the then licensed towers are unable or unwilling to provide for the quantity and quality of towing service which is required to serve the needs of the City. Any wrecker who is otherwise able to comply with this Ordinance may request the Common Council to hold a hearing on the requirement of "need". However, such a hearing will not be held unless the wrecker requesting such a hearing alleges that the factors dictating need on the effective date of this Ordinance have materially and substantially changed thereafter.

This Ordinance shall become effective upon passage and publication. Existing licensees need not be relicensed prior to July 1, 1983. Existing licensees will have until July 1, 1983, to meet equipment and storage lot requirements hereunder. New licensees will have until July 1, 1983, to fence their storage lot.

### 13.125 MASSAGE THERAPISTS

#### A. Definitions.

**1. "Massage Therapy"** means a health care service involving the palpation and manipulation of the soft tissues of the body in order to improve circulation, reduce stress, increase range of motion, and relieve soft tissue pain. Massage therapy may also involve, but is not limited to, exercises that promote balance in the musculoskeletal, postural, and biomechanical systems. Additionally, massage therapy may involve topical applications. The therapeutic purpose of the above is to enhance health and wellbeing.

**2. "Massage Therapist"** means a health care provider who, for valuable consideration, either direct or indirect, treats the tonus system of the body

through massage therapy.

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

**B. Prohibition With Exception For Persons Registered With The State.** No person, party, firm or corporation, unless otherwise provided herein, shall for valuable consideration, either direct or indirectly:

1. Act as a Massage Therapist without obtaining and maintaining a license therefor. Excepted from this requirement are State licensed health care professionals who provide Massage Therapy within the scope of their license and their training.

2. Operate as a Massage Therapist contrary to the terms of this Ordinance.

3. File an application for a license which is not true, correct and/or complete in all material respects.

4. Operate as a Massage Therapist as a home occupation in a residentially zoned area.

**Sections B.1., B.2. and B.3.** of this Ordinance do not apply to persons registered with the State pursuant to Subchapter XI, Chapter 440, Wisconsin Statutes, entitled "Registry of Massage Therapists and Body Workers".

**C. Licenses.** Massage Therapist Licenses shall be granted by the Common Council and issued by the City Clerk when all conditions for license issuance have been met.

**1. 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.

**2. Recommendation.** The City Clerk shall send a copy of the application to the Police Department, who shall report, in writing, to the City Attorney, as to the arrest and conviction 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 applicant should be licensed. 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.

**3. Term.** The license term shall be January 1, through December 31.

**4. Fee.** The license fee shall be Fifty (\$50.00) Dollars. For the license term commencing January 1, 2003, the license fee shall be One Hundred (\$100.00) Dollars.

**5. Revocation, NonRenewal and Suspension of License.** The Common Council, for just cause, may suspend, revoke, or not renew the license herein provided, upon serving upon Licensee 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. 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.

**6. 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 the Common Council. 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.

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

**8. Reports By Police Chief.** The Police Chief shall file reports with the City Attorney advising said City Attorney of conduct by a 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.

**D. Scope of License.** A licensed Massage Therapist may perform massage therapy at a site appropriately zoned for the business and possessing a valid Occupancy Permit from the City Department of Neighborhood Services and Inspections or at the place of residence or business of a client receiving massage therapy. Massage Therapy shall not be performed as a home occupation in a residentially zoned district.

**E. Criteria/Requirements For License Issuance.** An applicant for a Massage Therapist License shall comply with the following as a condition of being licensed.

1. Be eighteen (18) years of age or older, verified by a birth certificate or Driver's License.

2. Be of good moral character.

3. Provide verification of immunization against Rubella and Hepatitis B at the time of original application. Provide verification of negative results of Tuberculosis through Mantoux PPD Test or chest X-ray performed within ninety (90) days of the date of application at time of original application and each renewal application. In the case of positive results, there must be a physician's statement that the condition is not contagious.

4. Graduate from a school providing a minimum of five hundred (500) in-class hours of training in massage therapy in a curriculum approved by or substantially similar to a curriculum approved by the American Massage Therapy Association, the International Myomassethics Federation, Inc., or another national or international professional

massage therapy organization which has an approved massage therapy curriculum. The applicant must provide the City Clerk with documentation of their satisfactory completion of a course having an appropriate curriculum.

5. Have and maintain in full force and effect during the license term a policy of malpractice insurance written by an insurance company licensed to do business in the State of Wisconsin, and verified by a Certificate of Insurance, in an amount of no less than One Million (\$1,000,000.00) Dollars in coverage per person.

**F. License.** An applicant licensed hereunder shall be provided by the City Clerk with a license, including a color picture of the licensee.

**G. Overlapping Licenses.** This Ordinance, regulating Massage Therapists, shall not be construed as restraining or restricting the performance of acts within the definition of Massage Therapy by State licensed health care professionals not licensed hereunder, when such acts are within the scope of their license.

**H. Required Abbreviations and Titles In Advertising.** Licensed Massage Therapists shall, in their advertisements within the City of Kenosha, use one of the following: "Kenosha LMT" or "Kenosha Licensed Massage Therapist". It shall be unlawful for persons not licensed by the City of Kenosha to use said designations in any advertisement.

**I. Violations.** Each calendar day a violation of this Ordinance continues shall be considered a separate Offense.

### **13.13 REFUGE CENTERS**

#### **A. Purpose.**

The purpose of this ordinance is to insure that homeless persons in the City of Kenosha are able to obtain supportive services in safe and structured locations.

#### **B. Definitions.**

**1. Lodging:** Accommodations at which persons are allowed to sleep on mattresses, cots, sleeping bags, or other furnishings primarily designed for the sleeping of persons.

**2. Refuge Center:** A facility that provides accommodation principally for homeless persons, where the accommodation may include the provision of food, clothing, employment, or other support services, but shall exclude lodging.

**3. Staff:** Persons, whether paid or unpaid, who regularly and directly assist in the operation of the

Refuge Center. The term excludes volunteers who directly assist in the operation of the Refuge Center on an interim basis, but no more than any part of two days in any four-month period.

**C. License Required.**

1. Unless exempted from the licensing requirement pursuant to paragraph B 2., herein, no person whether personally, by agents or employees, singly, or with another business or enterprise may operate a Refuge Center within the City of Kenosha, and no person whether personally, by agents or employees, singly, or with another business or enterprise may allow the operation of a Refuge Center, without a license therefore from the Common Council in accordance with the provisions of this Ordinance.

2. The following are exempt from the regulation of this Section 13.13: A facility otherwise within the definition of "Refuge Center" that satisfies all of the following conditions:

a. is operated as a Shelter Facility, as that term is defined in the the Zoning Ordinance for the City of Kenosha;

b. is subject to a conditional use permit as a Shelter Facility and is operating under the terms of that conditional use permit.

3. Separate Licenses. A licensee hereunder who operates more than one (1) "Refuge Center" within the City shall be required to have in effect a separate license for each "Refuge Center".

4. Other Licenses And Permits. A license issued hereunder shall not exempt the holder thereof from obtaining such other licenses and permits as may be relevant and otherwise required by the City or by any other governmental agency.

**D. Transfer/Assignment.**

Licenses are not transferable or assignable from either person-to-person or from place-to-place.

**E. License Term.**

Licenses are for up to one year, expiring on the April 30th ensuing the grant of the license by the Common Council.

**F. License Application.**

1. Name, address, telephone number and e-mail address of Refuge Center license applicant, including all partners, if the applicant is a partnership.

2. Name, address, telephone number and e-mail address of Refuge Center manager, if different from the license applicant.

3. Current list of Board of Directors and

Officers, if a corporation; current list of members if a limited liability company.

4. Organizational Chart listing supervisory personnel by name.

5. Complete list of the services and programs provided at the Refuge Center, whether delivered by agency personnel or by outside organizations.

6. Floor plan identifying size and location of all Refuge Center areas.

7. Hours of operation including any periodic or seasonal schedule modifications.

8. Code of Conduct Plan which addresses the expectations and accountability of the clientele, including while on the Refuge Center premises and while off-site.

**G. Annual Inspection.**

Compliance monitoring by City departments shall occur annually, before action by the Common Council on the license application for each year.

**H. Amendment/Correction.**

Applicants and Licensees shall have the duty to amend and correct their application within ten (10) days of such time as any information stated therein is known by Applicant/Licensee to be untrue, incorrect or incomplete. No material change in scope of operation or site of operation shall be effective without the advance approval thereof by the Common Council.

**I. Recommendation.**

Upon receipt of an application for a license under this Section, the City Clerk shall send copies thereof to the Department of Neighborhood Services and Inspections, Fire Department, Health Department, and Police Department. The Department of Neighborhood Services and Inspections, Fire Department, and Health Department, either jointly or severally, within ten (10) days of receiving such copies, shall make a report, in writing, as to whether the premises meet the requirements hereof, along with any other pertinent information. The Police Department shall report in writing, to the City Attorney, as to any police record of applicant which may reflect upon their good moral character or business responsibility. The City Attorney shall examine said record and make a recommendation based thereon as to whether or not the license should be granted. Such reports shall be delivered to the City Clerk or clerk for the Licensing/Permit Committee who, in turn, shall deliver them with the application, to the Licensing/Permit Committee. Such Committee shall recommend to the Common Council either the granting or denial of the application or such other action as may be appropriate.

**J. Conditions of Operation.**

1. All supervision, whether paid or unpaid, must be trained in the requirements of this ordinance and in the policies of the Refuge Center .

2. During all operating hours, trained supervisory staff must be on premises and actively providing supervision to other staff, volunteers, and clientele.

a. Staffing provided must be adequate to serve the program needs of the clientele. Adequate staffing shall be determined based upon the professionally accepted standards to address the mental, physical and social needs of the clientele.

b. All staff must be at least 18 years old. Volunteers who assist in the operation of the Refuge Center on an interim basis, but no more than any part of two days in any four-month period may be under 18 years of age.

c. At least one member of staff holding current certification from the American Heart Association or the American Red Cross in first aid must be on premises at all times that the Refuge Center is open for business. A copy of the certification card for each staff member shall be on file at the licensed Refuge Center and subject to inspection.

d. All staff must be trained in fire/emergency procedures including the proper use of fire extinguishers.

e. All staff must have orientation training for the special needs of individuals who are homeless, experience mental health issues, chemical abuse issues, or intimate partner/domestic violence issues.

3. The Refuge Center must operate in compliance with the Fire Prevention Code, the Property Maintenance Code, and all other City ordinances.

4. Provide restrooms in compliance with the federal Americans with Disabilities Act with an adequate number of fixtures for the number of occupants.

5. Allow clientele access for restroom privileges during all hours of operation.

6. If the clientele of the Refuge Center will include minors, all staff shall have a criminal background check conducted annually by the Refuge Center licensee which shall be subject to inspection.

7. If the clientele of the Refuge Center will include minors, the Refuge Center licensee must have procedures in place that assure that no individual minor will be alone in any enclosed space with any one adult who is not the minor's parent, guardian, spouse, or sibling.

8. Adequate external lighting shall be provided for security purposes. The lighting shall be stationary, directed away from adjacent properties and public right-of-way, and of an intensity compatible with the neighborhood. The light shall be positioned and maintained in a manner that does not

unreasonably provide annoyance to residents of neighboring properties.

**K. Enforcement.**

The Director of the Department of Neighborhood Services and Inspections, the Fire Chief, the Chief of Police, and the Director of Environmental Health for the County of Kenosha shall have the primary responsibility to enforce this Ordinance within their jurisdiction. In the event that any of the aforementioned directors or chiefs receive a complaint outside of their jurisdiction, they shall refer it to the Department having proper jurisdiction. After normal City Municipal Building working hours, all complaints shall be made to the Police Department, who, where the complaint is outside of its jurisdiction, shall take the complaint and refer it to the Department having proper jurisdiction. This Ordinance shall be enforced by the following City Departments (Enforcing Departments) as follows:

1. By the Director of the Department of Neighborhood Services and Inspections or designee thereof, with respect to the Building Code (Chapter IX of the Code of General Ordinances for the City of Kenosha) the Sign Code (Chapter XV), the Property Maintenance Code (Chapter XVI), the Zoning Ordinance, and other provisions of the Code of General Ordinances not otherwise enforced by other Enforcing Departments, along with the responsibility of investigating complaints to the effect that a person is engaged in an activity requiring a license hereunder without first having obtained said license.

2. By the Fire Chief, or designee thereof, with respect to the Fire Prevention Code (Chapter III).

3. By the Chief of Police or designee thereof, with respect to Good Order and Conduct Code (Chapter XI) and Noise Control Code (Chapter XXIII).

4. By the Health Director or designee thereof, with respect to the Health Code (Chapter IV) and Noise Control Code (Chapter XXIII).

**L. Inspections.**

Applicants and Licensees shall permit authorized representatives of any Department of the City or County having enforcement powers hereunder to inspect the premises proposed to be licensed or licensed, with or without advanced notice, as often as may be required to permit said Departments to a perform their duties and assure compliance with this Ordinance, without first obtaining a special inspection warrant. Inspections shall be made during normal hours of business operation unless emergency circumstances require prompt action to protect the public health, safety, or welfare, or to preserve evidence of noncompliance with this Ordinance. The unreasonable failure to permit inspections shall be grounds for license denial, suspension, or revocation.

Upon notice of application by the City Clerk to the Enforcing Departments, they shall inspect the premises/equipment of each license applicant and licensee seeking license renewal, where they have duties with respect thereto, as part of the application/license renewal process and prior to application review. The Fire Chief, or designee thereof, shall make periodic inspections of Licensee premises/equipment during the license period and report apparent violations of this Ordinance over which it does not have jurisdiction to any Enforcing Department having jurisdiction thereover. Enforcing Departments may also inspect the premises/equipment of any Licensee upon a complaint being made with respect thereto by any person.

**M. Orders.**

It shall be unlawful for any licensee to fail to obey any final order of any Enforcing Department which was issued under the authority hereof.

**N. Appeals From Orders.**

A Licensee, where the public health, safety or welfare is not in immediate jeopardy, may appeal to the Common Council any order issued by any Enforcing Department under authority of this Ordinance. Orders issued pursuant to ordinances subject to specific appeal procedure must be appealed through that specific appeal procedure. All other orders issued pursuant to ordinances that are not subject to a specific appeal procedure, may be appealed to the Common Council by filing a written Notice of Appeal with the Enforcing Department that issued the order within ten (10) days of receipt of said order, or within the compliance period, whichever is shorter. The Common Council may direct that an appeal to it be heard by a Committee thereof.

**O. Licensees/Responsibility.**

Licensee shall, with respect to the conduct of their operation, have a duty to supervise their employees and clientele, and for purposes of license discipline proceedings, shall be responsible for the acts thereof .

**P. Revocation and Suspension Of Licenses.**

The Common Council may, for just cause, suspend or revoke any license herein provided, upon serving 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. Just cause shall include, but not be limited to:

1. Failing to maintain a status of good moral character and business responsibility.
2. Obtaining the license through fraud or misrepresentation.
3. Operating contrary to the terms of this Ordinance.
4. Failing to commence doing business within ninety (90) days of being granted a license.

**Q. Disciplinary Hearings.**

Disciplinary hearings, including suspension and revocation hearings, may be held before the Common Council or before the Committee charged with license review responsibilities. The Licensing/Permit Committee, when it conducts a hearing, 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. Said Committee shall provide the complainant and the licensee with a copy of the report. Either the complainant or Licensee may file an objection 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's report and any arguments presented by complainant or Licensee, finds the complaint to be true, or if there is no objection to a report recommending a suspension or revocation of the license, it 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 or revocation to the party whose license is affected. The Common Council may also order corrective action to be taken within a specified time as a condition of license maintenance, at any time, following notice and an opportunity to be heard.

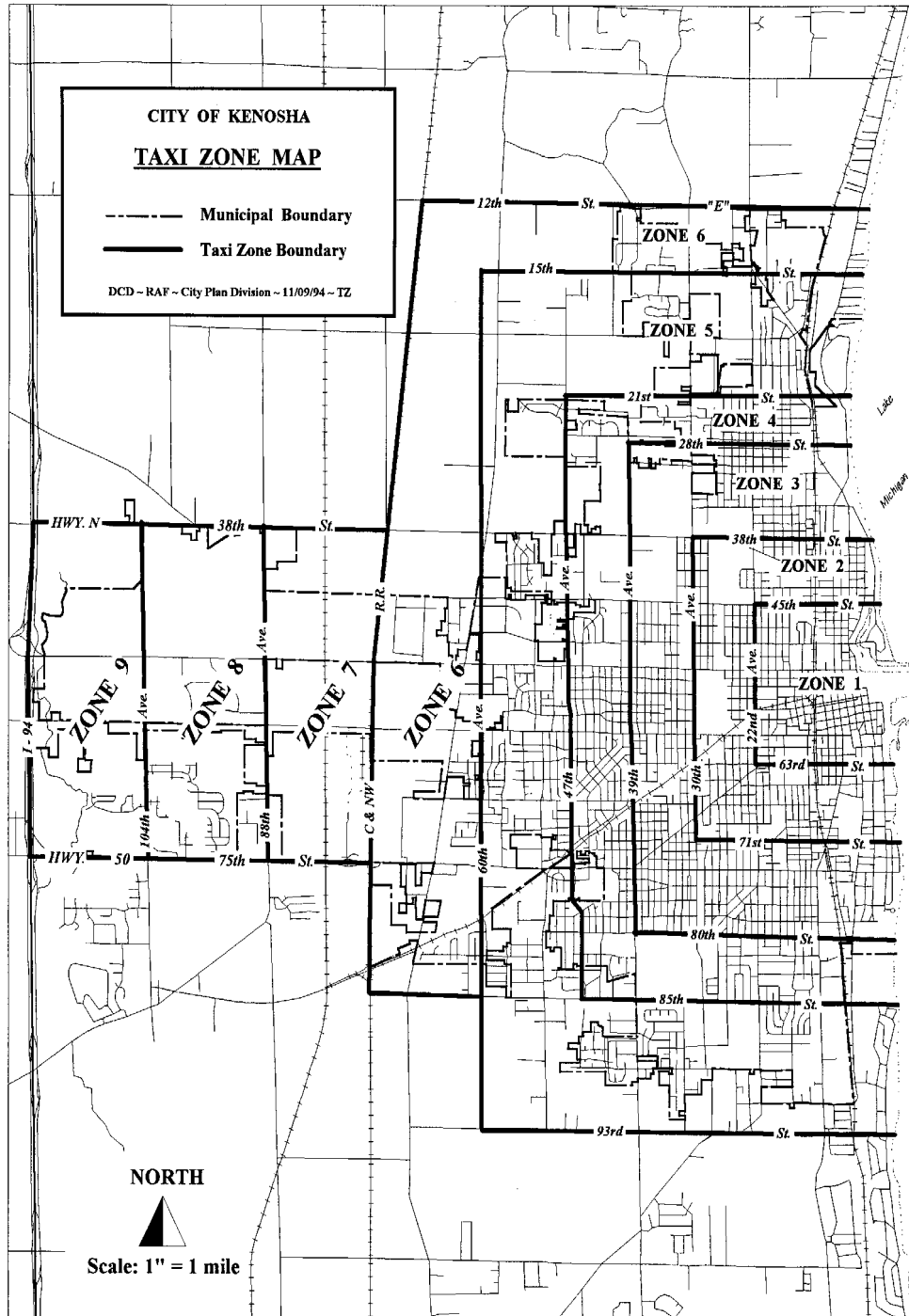
**R. Penalty.**

Any person who shall violate any of the terms and conditions of this Ordinance shall, upon conviction thereof, forfeit not more than Five Hundred (\$500) Dollars, plus the costs of prosecution, in addition to all applicable surcharges and assessments, and in default of the timely payment thereof be confined in the County Jail for a period not to exceed thirty (30) days.

**13.14 FEES**

Any person, firm or corporation who shall violate the provisions of this Chapter, shall upon conviction

thereof, be punished by a fine of not more than Two Hundred (\$200.00) Dollars and costs of prosecution and in default of payment thereof shall be imprisoned in the County Jail not to exceed thirty (30) days.



# CODE OF GENERAL ORDINANCES, 2011 - KENOSHA, WISCONSIN

## APPENDIX 13.07 D.1. - CITY OF KENOSHA TAXICAB SAFETY AND PERFORMANCE CHECKLIST

WALK AROUND INSPECTION	UNDER HOOD	
Operation of all exterior lights.	Check radiator for leaks/looseness.	Transmission/transaxle mounts.
All reflectors and lenses.	Check nonelectric cooling fan for play.	Driveline/U-joints/support bearings.
Mirror mounts and glass.	Pressure test cooling system.	Engine exhaust system.
Vehicle body/paint.	Coolant hoses/recovery system.	Inspect rear axle for oil leaks (if applicable).
Bumpers.	Record coolant protection level.	Rear suspension.
Hood/door/truck hatch hinges.	Pressure test radiator cap.	Rear brakes and hydraulic lines.
Windshield/windows.	Tension/Condition of all belts.	Parking brake cables/operation.
Roof.	Power steering fluid level/hoses.	Record rear brake lining thickness
INTERIOR	All accessory mounts/brackets.	Inspect rear brake drum/rotor condition.
Seats/seatbelts/shoulder harness.	Fuel throttle linkage/cables.	Fuel tank/supports/lines/cap.
Door locks/latches/releases.	Check engine for major oil leaks.	DRIVE TEST
Floorboard and covering.	Integrity of air intake system.	Operation of vehicle systems at normal operating temperature.
Interior lighting.	Wiring/connections to electrical devices.	Engine throttle response & performance
Instrument panel warning lights/gauges.	Battery area.	Observe exhaust for excessive smoke emissions.
Engine operation.	Check/record battery state of charge & load test.	Transmission/clutch operation.
Horn operation.	Ignition/distributor system.	Operation of all gauges & indicators.
Heater-A/C-Defroster controls.	Emissions related component-visual.	Steering wheel travel or bind.
Rear view mirror/sun visors.	Check all fluid levels.	Observe road handling.
Parking brake operation.	UNDER CAR/CHASSIS	Test brake operation at various road speeds.
Windshield, door and rear glass.	Steering gear/rack & pinion mounts.	Parking brake operation.
Switches & accessories operation.	Steering shaft and linkage.	Listen for any unusual noises.
Steering wheel free travel.	Check ball joints for wear.	
Clutch pedal free travel (if applicable)	Check struts/shocks for leaks.	
TIRES/WHEELS	Front wheel bearing adjustment.	
Irregular wear (alignment).	C.V. shafts and boots.	
Cuts and sidewall damage.	Front brakes and hydraulic lines.	<b>Wear limits, out of service criteria, and specifications are obtained by the vehicle or component manufacturer.</b>  <b>Accepted Industry standards, practices and methods should be followed while performing the inspections.</b>
Inspect valve caps.	Front brake drum/rotor condition.	
Inspect thread depth at 3 location -2/32"min.	Record front brake lining thickness.	
Record thread depth for each tire.	Record front brake rotor thickness.	
Check/record tire pressures. Include spare tire.	Brake vacuum/hydroboost operation.	
Wheelnut torque.	Front springs and mounts	
Missing or damaged axle studs.	Engine supports/cushions.	
Bent/damaged wheels.	Starter and cables.	
Check for spare & jack/lug wrench.	Check for under car fluid leaks.	

**CODE OF GENERAL ORDINANCES, 2011 - KENOSHA, WISCONSIN**

**APPENDIX 13.12 F. - CITY OF KENOSHA TOW TRUCK SAFETY MAINTENANCE CERTIFICATION**

<b>WALK AROUND INSPECTION</b>	<b>UNDER HOOD</b>	
Operation of all exterior lights.	Check radiator for leaks/looseness.	Transmission/transaxle mounts.
All reflectors and lenses.	Check nonelectric cooling fan for play.	Driveline/U-joints/support bearings.
Mirror mounts and glass.	Pressure test cooling system.	Engine exhaust system.
Vehicle body/paint.	Coolant hoses/recovery system.	Inspect rear axle for oil leaks (if applicable).
Bumpers.	Record coolant protection level.	Rear suspension.
Hood/door/truck hatch hinges.	Pressure test radiator cap.	Rear brakes and hydraulic lines.
Windshield/windows.	Tension/Condition of all belts.	Parking brake cables/operation.
Roof.	Power steering fluid level/hoses.	Record rear brake lining thickness.
<b>INTERIOR</b>	All accessory mounts/brackets.	Inspect rear brake drum/rotor condition.
Seats/seatbelts/shoulder harness.	Fuel throttle linkage/cables.	Fuel tank/supports/lines/cap.
Door locks/latches/releases.	Check engine for major oil leaks.	<b>DRIVE TEST</b>
Floorboard and covering.	Integrity of air intake system.	Operation of vehicle systems at normal operating temperature.
Interior lighting.	Wiring/connections to electrical devices.	Engine throttle response & performance
Instrument panel warning lights/gauges.	Battery area.	Observe exhaust for excessive smoke emissions.
Engine operation.	Check/record battery state of charge and load test.	Transmission/clutch operation.
Horn operation.	Ignition/distributor system.	Operation of all gauges & indicators.
Heater-A/C-Defroster controls.	Emissions related component-visual.	Steering wheel travel or bind.
Rear view mirror/sun visors.	Check all fluid levels.	Observe road handling.
Parking brake operation.	<b>UNDER CHASSIS</b>	Test brake operation at various road speeds.
Windshield, door and rear glass.	Steering gear/rack & pinion mounts.	Parking brake operation.
Switches & accessories operation.	Steering shaft and linkage.	Listen for any unusual noises.
Steering wheel free travel.	Check ball joints for wear.	<b>HOIST OPERATION</b>
Clutch pedal free travel (if applicable)	Check struts/shocks for leaks.	Check condition & operation of hoist.
<b>TIRES/WHEELS</b>	Front wheel bearing adjustment.	
Irregular wear (alignment).	C.V. shafts and boots.	
Cuts and sidewall damage.	Front brakes and hydraulic lines.	
Inspect valve caps.	Front brake drum/rotor condition.	<b>Wear limits, out of service criteria, and specifications are obtained by the vehicle or component manufacturer.</b>  <b>Accepted industry standards, practices and methods should be followed while performing the inspections.</b>
Inspect thread depth at three locations - 2/32" min.	Record front brake lining thickness.	
Record thread depth for each tire.	Record front brake rotor thickness.	
Check/record tire pressures. Include spare tire.	Brake vacuum/hydroboost operation.	
Wheelnut torque.	Front springs and mounts	
Missing or damaged axle studs.	Engine supports/cushions.	
Bent/damaged wheels.	Starter and cables.	
	Check for fluid leaks.	