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SECTION 5-1-1 DEFINITIONS

Unless the context otherwise requires, the following terms, as used in this chapter, shall be construed according to the definitions given below:

Alcoholic liquors: Any spirits, wine, beer, ale, or other liquor containing more than one-half (1/2) of one (1) percent alcohol by volume which is capable of being consumed as a beverage by a human being.

(State law reference: Alcoholic liquor defined, 235 ILCS 5/1-305.)

Beer: A beverage obtained by the alcoholic fermentation of an infusion or concoction of barley, other grain, malt, and hops in water, and includes, among other things, ale, stout, lager beer, porter and the like. (State law reference: 235 ILCS 5/1-3.04.)

Clubs: Any corporation, organized under the laws of this state, not for pecuniary profit, solely for the promotion of some common object other than the sale or consumption of alcoholic liquors kept, used and maintained by its members through the payment of annual dues, and owning, hiring, or leasing a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests and provided with suitable and adequate kitchen and dining room space and equipment; and maintaining a sufficient number of servants and employees for cooking, preparing and serving food and meals for its members and their guests; provided, that such club files with the local Liquor Control Commissioner at the time of its application for a license under this Chapter, two (2) copies of a list of names and residences of its members, and similarly files within ten (10) days of the election of any additional member, his name and address; and, provided further, that its affairs and management are conducted by a board of directors, executive committee or similar body chosen by the members in the annual meeting and that no member or any officer, agent, or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation any profits from distribution or sale of alcoholic liquor to the club or to the members of the club or its guests introduced by members beyond the amount of such salary as may be fixed and voted at any annual meeting by the members or by its board of directors or other governing body out of the general revenue of the club.

(State law reference: 235 ILCS 5/1-3.24.)

Dwelling or apartments used for home or residence purposes: Any building designed and used for, and occupied by one (1) or more persons, as a permanent living and sleeping quarters; provided, however, that the term “dwellings” or “apartments shall not include any hotel or building occupied as a more or less temporary living and sleeping quarters for individuals, who are lodged with or without meals, and in which there are more than fifteen (15) sleeping rooms, usually occupied singly, and no provisions made for cooking in any individual room or apartment.

Hotels: Every building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent, or residential, in which fifteen (15) or more rooms are used for sleeping accommodations of such guests, and having one (1) or more public dining rooms where meals are served to such guests, such sleeping accommodations and dining rooms being contained in the same building, or buildings in connection therewith, and such building or buildings, or structure or structures being provided with adequate and sanitary kitchen and dining room equipment and capacity.

(State law reference: 235 ILCS 5/1-3.25.)

Minor: Any person who has not attained the age of twenty-one (21) years.

Obscene: Any of the following as a minimum:

- A. Exposure of genitalia, pubic hair, buttocks, natal cleft, perineum, anal region, or pubic hair region;
- B. Exposure of any device or costume giving the appearance or simulation of areas in Paragraph 1 above;
- C. Exposure of any portion, or simulation of such exposure, of the mature female breasts;
- D. Engaging in a male or female strip tease, lingerie fashion show, any wrestling in any substance other than air, or female wet T-shirt contest;
- E. Engaging in any act or form of entertainment which, in whole or part, would be considered obscene as such term is defined by State law;
- F. Performing, or simulating the performance of, acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or normally considered similar acts;

- G. The actual or simulated touching, caressing, or fondling of the breasts, buttocks, pubic area, anus, or genitals.

Original package: Any bottle, flask, jug, can, cask, barrel, keg, hogshead, or other receptacle or container used, corked, or capped and labeled by the manufacturer of alcoholic liquor to contain or convey any alcoholic liquor.

Pre-mixed packages: An alcoholic liquor mixed with flavoring and bottled by the manufacturer in single serving bottles having less than 7.5 percent alcohol by volume.

Premises: The area within a building for which a license to sell alcoholic liquor is issued and which is actually used in connection with the storage, preparation and sale of alcoholic liquor, but specifically excluding any outside areas such as patios, open porches, roof tops, balconies, stoops, sidewalks, yards, driveways, parking lots and similar outside areas; except as otherwise provided in the case of a Subclass (2) supplemental license.

Restaurant: Any public place kept, used, maintained, advertised, and held out to the public primarily as a place where meals are served, and where meals are actually and regularly served, without sleeping accommodations, such space being provided with adequate and sanitary kitchen and dining equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook, and serve suitable food for its guests and where the sale or consumption of alcoholic liquors is only incidental to the serving of meals. The fact that seventy (70) percent or more of the gross revenue in any license year from the operation of the licensed premises is derived from the sale of meals prepared and served for human consumption on the licensed premises and all nonalcoholic beverages served incidental thereto, shall be prima facie evidence that such business is a restaurant within the meaning of this Chapter. Such gross revenue shall not include food and beverages served by vending machines, nor meals and beverages prepared and sold for carryout or catering functions to be consumed off of the licensed premises.

(State law reference: 235 ILCS 5/1-3.23.)

Retail sales: The sale for use or consumption and not for resale.

(State law reference: 235 ILCS 5/1-3.18.)

Retailer: Any person who sells or offers for sale alcoholic liquors, beer, or wine beverages for use or consumption and not for resale in any form.

Sale: Any transfer, exchange, or barter in any manner, or by any means whatsoever, including all sales made by any person, whether principal, proprietor, agent, servant, or employee.

(State law reference: 235 ILCS 5/1-3.21.)

To sell: “To sell” includes to keep or expose for sale and to keep with intent to sell.

(State law reference: 235 ILCS 5/1-3.22.)

Wine: Any alcoholic beverage obtained by the fermentation of the natural contents of fruits or vegetables, containing sugar, including such beverages when fortified by the addition of alcohol.

(State law reference: 235 ILCS 5/1-3.03.)

SECTION 5-1-2 ADOPTION AND APPLICABILITY OF STATE LAW

All provisions of “AN ACT relating to alcoholic liquors” Laws 1933-34, Second sp. Sess., approved Jan. 31, 1934, eff. July 1, 1934 (Ill. Rev. Stat. 235 ILCS 5/1-1 et seq.), as amended or shall be amended are hereby incorporated and made a part of this Chapter insofar as the provisions of such state law pertain to the City. In the event of a conflict between state law and any provision of this Chapter, the state law shall govern.

SECTION 5-1-3 LIQUOR CONTROL COMMISSIONER

The Mayor shall, in accordance with State statutes, serve as the Liquor Control Commissioner of the City of West Peoria and shall be charged with the administration of the Liquor Control Act. Chapter 235, ILCS 5/1-1, et. seq., of the Illinois Revised Statutes, this Chapter, and of all Ordinances and Resolutions relating

to alcoholic liquor as may be enacted by the City of West Peoria. The Mayor shall have the authority to appoint a person or persons to assist him in exercise of the powers and performance of the duties of Liquor Control Commissioner.

- A. The Corporate Authorities may establish a salary for the Liquor Control Commissioner.
- B. The Liquor Control Commissioner shall have the following powers, duties and functions with respect to local liquor licenses.
 - 1. To grant or suspend for not more than thirty (30) days or to revoke for cause all local licenses issued to persons or entities within West Peoria.
 - 2. To enter or authorize any law enforcement officer to enter upon the premises licensed hereunder pursuant to state statute.
 - 3. To examine under oath any applicant for a local license or renewal thereof, any licensee upon whom notice of revocation or suspension has been served, and to examine or cause to be examined the books and records of any applicant and to hear testimony and take proof of information and to issue subpoenas which shall be effective upon issuance.
 - 4. To receive local license fees and pay the same to the City Treasurer.
 - 5. In lieu of suspension or revocation, to levy fines not to exceed one thousand dollars (\$1,000.00) for each violation, each day on which a violation continues constituting a separate violation. Not more than ten thousand dollars (\$10,000.00) in fines may be imposed against any license during the period of his license. The proceeds shall be paid into the general corporate fund.
- C. The Liquor Control Commissioner may, in accordance with law, revoke or suspend any license issued by him if he determines that the licensee has violated State law, municipal ordinance or applicable rule and regulation of the Liquor Control Commission, which is not inconsistent with law. No liquor license shall be revoked or suspended except after a public hearing before the Liquor Control Commissioner as provided by state statute. Notice of hearing shall be posted at the City Hall.
(State law references: 235 ILCS 5/4-2,3,4, and 5 and 5/7-5.)
- D. The Liquor Control Commissioner shall provide a quarterly written report on his/her activities to the Corporate Authorities.

SECTION 5-1-4 POSSESSION, PURCHASE, DISPENSING, OR CONSUMPTION OF LIQUOR BY PERSON OF NON-AGE; PROOF, MISREPRESENTATION OF AGE

- A. Any person to whom the sale, gift, or delivery of any alcoholic liquor is prohibited because of age shall not purchase or accept a gift of such alcoholic liquor or have such alcoholic liquor in his possession; except as provided in this Chapter. The possession and dispensing or consumption by a person of non-age of alcoholic liquor in the performance of a religious ceremony or service, or the consumption by person of non-age under the direct supervision and approval of the parents or parent or legal guardian of such person of non-age in the privacy of a home, is not prohibited in this Section.
- B. If a licensee or his agent or employees believes, or has reason to believe, that sale or delivery of any alcoholic liquor is prohibited because of the non-age of the prospective recipient, he shall, before making such sale or delivery, demand presentation of some form of positive identification, containing proof of age, issued by a public official in the performance of his official duties.

For the purpose of preventing the violation of this Section, any licensee, or his agent or employee, may refuse to sell or serve alcoholic beverages to any person who is unable to produce adequate positive identification of identity and of the fact that he is the age of twenty-one (21) years or older.

Proof that the licensee, or his employee or agent, demanded, was shown and reasonably relied upon such positive identification in any transaction forbidden by this Section is competent evidence and

may be considered in any prosecution or hearing therefore in any proceedings for the suspension or revocation of any license based thereon.

- C. No person shall transfer, alter, or deface such identification card, use the identification card of another; carry or use a false or forged identification card; or obtain any identification card by means of false information. No person shall purchase, accept delivery, or have possession of alcoholic liquor in violation of this Section.

(State law reference: 235 ILCS 5/6-16 and 5/6-20.)

SECTION 5-1-5 CARRYING ALCOHOLIC LIQUOR IN UNSEALED OR OPENED CONTAINER FROM PREMISES

- A. It shall be unlawful for any person to carry any alcoholic liquors in an unsealed or opened container from the licensed premises where such alcoholic liquor was purchased.
- B. No licensee or person as proprietor, agent, servant, or employee of such licensee shall knowingly permit any patron to violate this Section, nor continue to sell alcoholic liquors to such person, knowing that such person intends to carry the alcoholic liquor from the premises in an open or unsealed container.

SECTION 5-1-6 REQUIRED AND CONDITIONS FOR LICENSE

Licenses shall be granted for the sale of alcoholic liquors in all its forms as defined in the statutes of this State, subject to the conditions hereinafter set forth. No person, either by himself or his agent, or any person acting as an agent, barkeeper, clerk, or servant of another shall sell or offer for sale at retail in the City of West Peoria alcoholic liquor without first having obtained a license to do so as hereinafter provided, and it shall likewise be unlawful for any person to sell or offer for sale any intoxicating liquors, either alcoholic, malt, or vinaceous, in violation of the terms and condition of such license.

SECTION 5-1-7 LICENSE REQUIRED FOR EACH PLACE OWNED BY LICENSEE; LICENSE NOT TRANSFERABLE

A separate license shall be required for each individual place of business operated by a licensee, and such license shall not be transferable from one licensee to another licensee, except in conformance with the laws of this State, then existing, with reference to the transfer of State licenses.

SECTION 5-1-8 APPLICATION FORMS

All applicants for a license for the sale of alcoholic liquors at retail in the City shall make their application on forms provided by the local Liquor Control Commissioner. The City Clerk shall prepare a sufficient quantity of the forms and shall provide the same to the applicant at no additional charge. Each applicant shall answer all questions on the application form which the Commissioner, in his discretion, believes necessary in order for the Commissioner to reach a determination.

Each application shall be accompanied by the appropriate application fee in the amounts as set forth in Section 5-1-13 of this Code. See also Title 11, Fee Schedule. The application for an initial annual license shall be accompanied by the application fee as provided in Section 5-1-13 (1) of this section; and the applicant upon notification by the Commissioner, or the City Clerk, that such application has been approved shall remit the appropriate license fee as set forth in 5-1-13 (2).

No liquor license shall be issued or renewed until all license fees as required by this Section have been paid by the applicant and the requisite food and beverage licenses/permits have been issued by the health department.

11/11/03

SECTION 5-1-9

CLASSES OF LICENSES GENERALLY

Licenses to sell alcoholic liquors at retail are hereby divided into nine (9) classes as follows:

Class “A” licenses shall authorize the sale of alcoholic liquors on the premises of any tavern for consumption on the premises, as well as package sales as an incidental use.

Class “B” licenses shall authorize the retail sale of alcoholic liquors on the premises in any restaurant for consumption on the premises. (If the restaurant has a bar, Class G shall also be required.).

- A. **Class “B-1”** licenses shall authorize the retail sale of alcoholic liquors on the premises in any establishment that would otherwise qualify as a restaurant under Section 5-1-1 but fails to meet the seventy (70) percent food sales threshold and has at least twenty-five (25) percent of its gross revenue in any license year from the operation of the licensed premises derived from the sale of meals prepared and served for human consumption on the licensed premises and all nonalcoholic beverages served incidental thereto. (If the establishment has a bar, Class G is also required.)

(Ord. 2006-07)

Class “C” shall authorize the retail sale of alcoholic liquors in packages; and not for consumption on the premises where sold.

Class “D” licenses shall authorize the retail sales of alcoholic liquors on the premises of a tavern for consumption on the premises.

Class “E” licenses shall authorize the retail sale on the premises of alcoholic liquors in any club or nationally organized veterans' association, for consumption on the premises.

Class “F” licenses shall authorize the retail sale of beer and wine only on the premises of any tavern or restaurant for consumption on the premises.

Class “G” licenses shall authorize the retail sale of alcoholic liquors on the premise when such bar is connected to a restaurant as well as package sales as an incidental use.

Class “H” licenses shall authorize sale of beer and wine in packages not for consumption on premises.

Class “I” Temporary license shall authorize for sale of beer, wine, and pre-mixed beverages for consumption on the premises at special events.

Class “J” licenses shall authorize the retail sales of alcoholic liquors on the premises of any assembly hall, stadium or privately owned public golf course for consumption on the premises when such retail sale is made by the same person who operates the assembly hall, stadium or privately owned public golf course.

(Ord. 2010-14)

SECTION 5-1-10

SUPPLEMENTAL LICENSES GENERALLY

- A. Upon application to the local Liquor Control Commissioner by a license holder, the following supplemental licenses may be issued by the Commissioner. The granting of a supplemental license in no way abrogates the responsibility of obtaining any other license required by this Chapter.

Additional written conditions may be imposed by the Commissioner upon a supplemental license if the Commissioner reasonably believes such conditions are necessary to protect the health, safety, and welfare of the general public. Such conditions and additional conditions shall be deemed to exist with the agreement of the licensee and shall be a condition and part of the supplemental license.

- B. It shall be unlawful for any licensee to operate as provided in the hereinafter enumerated five (5) subclasses of licenses without holding a current valid subclass license for such operation.”

(Ord. 2015-25)

- C. The term of subclass licenses shall be one (1) license year; unless otherwise provided in this Chapter; however, any subclass license shall be subject to review, suspension, or termination at any time on the basis of changed conditions.
- D. Before the issuance, denial, renewal, continuation, or termination by the Commissioner of any subclass (1), (2), (3), (4), or (5) license, any licensee or person owning property or residing within a three hundred (300) foot radius of the proposed site may request the Commissioner hold a hearing open to the public on the question of such subclass license. (Ord. 2015-25) The Commissioner shall make an official record and shall consider and make findings on the following issues:
 - 1. The zoning classification of the licensed premises;
 - 2. The character of the surrounding area;
 - 3. The traffic and parking situation, including any off-street parking requirements of the licensed business, within a three hundred (300) foot radius;
 - 4. Any statements of interested person, either oral or written;
 - 5. The impact of such proposed or existing subclass license on the character of and the traffic and parking situation in the immediate neighborhood;
 - 6. Any past operating history of the licensee and the proposed site. 11/11/03
 - 7. No subclass license shall be issued or continued if there is a finding that it would alter adversely or has altered adversely the essential character of the neighborhood or would cause, or has caused, undue traffic or parking problems in the neighborhood.

SECTION 5-1-11 RESTRICTIONS ON SUPPLEMENTAL LICENSES

A subclass (1) license shall authorize the performance of live entertainment on the premises licensed pursuant to this section. Obscene entertainment shall be specifically prohibited.

A subclass (2) license shall authorize the retail sale of alcoholic liquor in an outdoor beer garden or café adjacent to a licensed premises.

A subclass (3) license shall authorize a licensed establishment holding a Class “C” license as described in Section 5-1-8 of this Code to hold no more than twelve (12) wine tasting events during a license year subject to the following restrictions:

- A. The licensee or his agents shall dispense such wine at no charge to the consumer.
- B. The licensee shall not charge a “cover charge”, “door charge”; solicit donations; or condition the dispensing of wine upon the purchase of any item offered for retail sale by the licensee;
- C. For purposes of this Section, the term “event” shall mean any twenty-four (24) hour period;
- D. A licensee may apply for this supplemental license on either a daily or an annual basis. The daily license shall be issued for only one (1) specific date and a separate supplemental license shall be required for each event;
- E. An annual subclass (3) license may be applied for at any time during the license year by the licensee. Once an annual license is issued, the licensee shall notify the County Sheriff’s Department of any date for a wine tasting event at least fourteen (14) days prior to the event.

Subclass (4) a supplemental license authorizing the retail sale of alcoholic beverages in assembly halls, stadiums or privately owned public golf courses in temporary locations such as ballrooms, party rooms, meeting rooms, movable concession stands or from traveling vendors, which are not licensed as permanent locations through the obtaining of a Class “J” license. This supplemental license will allow the use of up to ten (10) temporary locations for which the fee shall be forty-five dollars (\$45.00) per temporary location.

(Ord. 2010-14)

Subclass (5) a supplemental license authorizing the retail sale of alcoholic beverages as part of a entertainment package as permitted in Section 5-1-35 subject to the following restrictions:

- A. The dates of operation are restricted to dates during which there is an event at a separate stadium.
- B. The establishment is restricted to serving alcoholic liquor to two (2) hours before the event and one (1) hour after the event.
- C. The sale of alcoholic liquor is restricted to beer and wine.
- D. Tickets are required for admission to the establishment.
- E. Sales of admission tickets are prohibited on the day of an event and sales of admission tickets are permitted for single day events only. (Ord. 2015-25)

SECTION 5-1-12 TEMPORARY LICENSES

Under the provisions as set forth herein, the local Liquor Control Commissioner may, in his discretion, upon proper application being made, grant and issue a Class I license for a temporary sale of beer, wine, and pre-mixed beverages to any person for a specific event, not for use as a regularly established business, for use on privately owned premises, for a certain designated period of time not to exceed seven (7) days. The granting and issuance of a temporary license shall in no way relieve the licensee from any requirements imposed by State law including any requirement that a State liquor license be obtained. 3/29/07

SECTION 5-1-13 FEES

- A. Each application for a Class A, B, C, D, E, F, or H license from any applicant who at the time of application is not holding a then valid City liquor license shall be accompanied by a nonrefundable payment of three hundred fifty dollars (\$350.00). This application fee shall be in addition to all other fees set forth in this Section and such application fee shall not be apportioned even though less than twelve (12) months remain in the license year, nor shall it be refunded in the event the application is denied. (Ord. 1994-12)
- B. The annual license fee for each license shall be as follows: (Ord. 2002-04)

<u>License Type</u>	<u>Fee</u>	
Classes "A," "C," "D" and "E"	\$850.00	
Classes "B," "B-1," "F", and "H"	\$740.00	
Class "G"	\$110.00	
Class "J"	\$850	(Ord. 2010-15)
Subclass (1)	No fee	
Subclass (2)	\$121.00 per annum	
Subclass (3)	\$22.00 per day; or \$220.00 per License year. Anyone holding Ten (10) wine-tasting events in one (1) year shall be deemed to have paid for an annual license	
Subclass (4)	\$45.00 per temporary location up to 10 locations	(Ord. 2010-15)
Class I -Temporary		
One (1) day	\$25.00	
Two (2) days	\$33.00	
Three (3) days	\$42.00	
Four (4) days	\$55.00	
More than four (4) days	\$83.00	

- C. In the event the initial application is for a period of less than the full license year; the annual fee as set forth in subsection (b) shall be reduced in proportion to the full calendar months which have elapsed in the license period prior to the issuance of the license.

- D. The fee paid for a liquor license may be reduced on a pro rata basis for each calendar month for which the license shall not be used if the licensee relinquishes the license to the City Clerk and no longer does business at the location of the liquor license establishment. The refund on the prorated license fee shall be determined on the first day of each month. If a license holder relinquishes his liquor license subsequent to the first day of a month, that entire month shall not be included in determining the amount of the reimbursement.
- E. No refunds will be given in the event the business ownership or control is transferred during the license year. However, new applicants applying partway through the license year will be charged only a prorated fee. (Ord. 2002-05)
- F. Number of available liquor licenses

<u>License Class</u>	<u>Number of available liquor licenses</u>	
A	10	(Ord. 2018-20)
B	3	(Ord. 2003-10)
B-1	2	(Ord. 2006-08)
C	7	(Ord. 2015-10)
D	1	(Ord. 2002-06)
F	1	(Ord. 2012-11)
G	3	(Ord. 2003-10)
H	1	(Ord. 2015-10)
J	1	(Ord. 2010-15)

(Ord. 2002-06)

SECTION 5-1-14 GENERAL RESTRICTIONS UPON ISSUANCE

- A. No license authorized by this Chapter shall be issued to:
- B. A person under the age of twenty-one (21) years; or under any legal disability;
- C. A person not an actual resident of the City;
- D. A person who is not of good moral character and reputation in the community in which he resides;
- E. A person who is not a citizen of the United States;
- F. A person who has been convicted of a felony under any federal or state law, if the local Liquor Control Commissioner determines after investigation that such person has not been sufficiently rehabilitated to warrant the public trust;
- G. A person who has been convicted of being a keeper or is keeping a house of ill fame;
- H. A person who has been convicted of pandering or any other crime or misdemeanor opposed to decency and morality;
- I. A person whose license issued under this Section or whose license issued by the Illinois Liquor Control Commission has been revoked for cause;
- J. A person who, at the time of application for renewal of any license issued under this Chapter, would not be eligible for such license upon a first application;
- K. A co-partnership, unless all the members of the co-partnership shall be qualified to obtain a license;
- L. A corporation, unless it is incorporated in Illinois; or unless it is a foreign corporation which is qualified under the Illinois Business Corporation Act to transact business in Illinois;
- M. A corporation, if any officer, manager, or director thereof, or any stockholder or stockholders owning in the aggregate more than five (5) percent of the stock of such corporation, would not be

eligible to receive a license hereunder for any reason other than citizenship and residence within the county.

- N. A person whose place of business is conducted by a manager or agent, unless such manager or agent possesses the same qualifications other than residency required of the licensee;
- O. A person who has been convicted of a violation of any federal or state law concerning the manufacture, possession, or sale of alcoholic liquor, or shall have forfeited his bond to appear in court to answer charges for any such violation;
- P. A person who does not own the premises for which a license is sought, or does not have a lease thereon for the full period for which the license is to be issued;
- Q. Any law enforcing public official, member of the City Council, and no such official shall be interested in any way, either directly or indirectly, in the manufacture, sale, or distribution of alcoholic liquors;
- R. A person who is not a beneficial owner of the business to be operated by the licensee;
- S. A person who has been convicted of a gambling offense as proscribed by any of subsections (a) (3) through (a) (10) of Section ZZZ of, or as proscribed by Section 28-3 of the "Criminal Code of 1961" of the State of Illinois, approved July 28, 1961, as heretofore or hereafter amended, or as proscribed by a statute replaced by any of the aforesaid statutory provisions;
- T. A person to whom a federal gaming device stamp or a federal wagering stamp has been issued by the federal government for the current tax period;
- U. A co-partnership to which a federal gaming device stamp or federal wagering stamp has been issued by the federal government for the current tax period, or if any of the partners have been issued a federal gaming device stamp or federal wagering stamp by the federal government for the current tax period;
- V. A corporation, if any officer, manager, or director thereof, or any stockholder owning in the aggregate more than twenty (20) percent of the stock of such corporation has been issued a federal gaming device stamp or federal wagering stamp for the current tax period;
- W. Any premises for which a federal gaming device or a federal wagering stamp has been issued by the federal government for the current tax period;
- X. A person who has not submitted to photographing and fingerprinting by the Sheriff's Department, or by another law enforcing agency with the approval of the Sheriff;
- Y. Any person not eligible for a state retail liquor dealer's license.

(State law reference: 235 ILCS 5/6-2,3,4)

SECTION 5-1-15 RETAIL SALES NEAR CHURCHES, SCHOOLS, HOSPITALS, ETC.

- A. No license shall be issued for the sale at retail of any alcoholic liquor or beer or wine beverages within one hundred (100) feet of any church, school, other than an institute of higher learning, hospital, home for the aged or indigent persons, nursing homes, or homes for veterans, spouses, or children in any military or naval station; provided that this prohibition does not apply to hotels offering restaurant services, regularly organized clubs, or to restaurants, food shops, or other places where the sale of alcoholic liquors is not the principal business carried on, if such place of business so exempted shall have been established for such purposes prior to the taking effect of this Code; nor to the renewal of a license for the sale at retail of alcoholic liquor on premises within one hundred (100) feet of any church or school where such church or school has been established within such one hundred (100) feet since the issuance of the original license.
- B. In the case of a church or school, the distance of one hundred (100) feet shall be measured to the nearest part of any building used for worship services or educational programs and not to property

boundaries. In all other instances the distance of one hundred (100) feet shall be measured to the nearest part of the property boundaries.

- C. Nothing in this Section shall prohibit the issuance of a license to a church or private school to sell at retail alcoholic liquor if such sales are limited to periods when groups are assembled on the premises solely for the promotion of some common object other than the sale or consumption of alcoholic liquors.
- D. No license shall be issued to any person for the sale at retail of any alcoholic liquor at any store or other place of business where the majority of customers are minors of school age, or where the principal business consists of school supplies, food, lunches, or drinks for such minors.
- E. The prohibitions contained in this Section do not pertain to temporary licenses under Section 5-1-12.

(State law reference: 235 ILCS 5/6-11.)

SECTION 5-1-16 ZONING REQUIREMENTS

- A. No license shall be issued or renewed for the sale at retail of any alcoholic liquor or beer or wine unless the use of the premises for the retail sale of distribution of alcoholic liquors or beer or wine is a “permitted use” as defined in Chapter 24, entitled “Zoning,” of the Code of Peoria County or under any adopted City zoning ordinance.
- B. No license shall be issued or renewed for the sale at retail of any alcoholic liquor or beer or wine beverages in a building situated in a zoning district with a “UU” use group as now provided or hereinafter amended in the Zoning Ordinance of the County or under any like category under any adopted City zoning ordinance.

SECTION 5-1-17 FOOD AND DRINK LICENSE

No licenses shall be issued or renewed without the license holder/applicant first obtaining a food or drink license as provided by ordinance. The failure to obtain a license or the loss of such license through revocation, suspension, lapse or otherwise shall require the local Liquor Control Commissioner to revoke, suspend, or refuse to grant the liquor license.

SECTION 5-1-18 DISPLAY

Every licensee shall cause his license to be framed and hung in plain view in a conspicuous place on the licensed premises.

SECTION 5-1-19 REVOCATION OR SUSPENSION

- A. The local Liquor Control Commissioner may, after proper hearing, fine (as provided in Paragraph 2 of this Section), revoke, or suspend for not more than thirty (30) days any license issued by him under the terms of this Section, for any of the following reasons:
 - 1. Violation of any of the provisions of this Section or any violation of any provision of the laws of the State relating to the sale of alcoholic liquors.
 - 2. The willful making of any false statements as to a material fact in an application for a license or the renewal thereof; however, no such license shall be revoked or suspended except after a public hearing by the Commissioner with a three (3) day written notice to the licensee affording said licensee an opportunity to appear and defend.
 - 3. If the Commissioner has reason to believe that any continued operation of a particular licensed premises will immediately threaten the welfare of the community, he may, upon the issuance of a written order stating the reason for such conclusion, and without notice or hearing, order the licensed premises closed for not more than seven (7) days, giving the licensee any opportunity to be heard during that period, except that if such licensee shall

also be engaged in the conduct of another business or businesses on the licensed premises such order shall not be applicable to such other business or businesses.

- B. In lieu of suspension or revocation, the local Liquor Control Commissioner may instead levy a fine on the licensee for such violations. The fine imposed shall not exceed one thousand dollars (\$1,000.00) for each violation; each day on which a violation continues shall constitute a separate violation. Not more than ten thousand dollars (\$10,000.00) in fines under this Section may be imposed against any licensee during the period of his license. Proceeds from such fines shall be paid into the general corporate fund.
- C. The Commissioner, upon probable cause that a violation of this Chapter or any violation of any provision of the laws of this State relating to the sale of alcoholic liquors has occurred, shall cause a written notice to appear to be issued to the licensee. Such notice to appear shall inform the licensee of nature of the charges and set a time and place for hearing not less than three (3) days from the date of the notice.
- D. Such hearing shall be public and a verbatim transcript shall be made. The licensee may be represented by legal counsel licensed to practice law in the State. All witnesses shall testify under oath administered by the Commissioner or other person authorized to administer such oath in Illinois. Such hearing need not be conducted according to the strict rules of evidence and procedure followed in a court of law; however, such hearings shall be conducted in a fair and impartial manner to all concerned. On motion of the licensee, the three (3) day written notice of hearing may be waived in whole or in part. Any licensee may, at his option, waive his right to a public hearing on the suspension or revocation of his license. In such an event, the Commissioner may order any suspension, revocation, or make any other order which would be appropriate upon a finding of a violation at the conclusion of a public hearing. The licensee shall indicate such waiver in writing to the Commissioner at any time prior to the commencement of the actual public hearing.
- E. The Commissioner shall within five (5) days after such hearing, if he determines after such hearing that the license should be revoked, or suspended, state the reason or reasons for such determination in a written order of revocation or suspension and shall serve a copy of such order within the said five (5) days upon said licensee.
- F. Any five residents of the City shall have the right to file a complaint with the local Commission stating that any retailer licensee, subject to the jurisdiction of the local Commission, has been or is violating the provisions of this Act or the rules or regulations issued pursuant hereto. Such complaint shall be in writing in the form prescribed by the local Commission and shall be signed and sworn to by the parties complaining. The complaint shall state the particular provision, rule, or regulation believed to have been violated and the facts in detail upon which belief is based. If the local Commission is satisfied that the complaint substantially charges a violation and that from the facts alleged there is reasonable cause for such belief, it shall set the matter for hearing and shall serve notice upon the licensee of the time and place of such hearing and of the particular charge in the complaint.

(State law reference: 235 ILCS 5/7-5.)

SECTION 5-1-20 HOURS OF SALE GENERALLY

- A. No person or licensee shall sell or offer for sale at retail, any alcoholic liquors or furnish or give away, or allow or permit the same to be consumed on the licensed premises, or any other premises, under the control, directly or indirectly, of the licensee between the hours of 2:00 a.m. and 6:00 a.m. on all days.
- B. No person other than the licensee of a licensed premises or any of the licensee's employees while actually in the performance of their duties shall be permitted to enter or remain upon the premises, nor shall any person consume any alcoholic liquor on such premises, nor shall any alcoholic liquor be exposed upon such premises in any open individual serving container (including but not limited

to glasses or beer bottles) beyond thirty (30) minutes after the prescribed closing time for such licensed premises.

- C. It shall be unlawful to keep open for business or to permit the public to patronize any premises where alcoholic liquors are sold at retail during the hours within which the sale of such liquor is prohibited; provided however, in the case of restaurants, clubs, hotels, grocery stores, package stores and drug stores, such establishments may be kept open during such hours, but no alcoholic liquor may be sold during such hours, except as provided by this Section.

(State law reference: 235 ILCS 5/4-1.)

SECTION 5-1-21 HOURS OF SALE ON NEW YEAR'S EVE

- A. The closing hours provided for in this Chapter are hereby extended for a period of two (2) hours on New Year's Eve provided that the licensed establishment not permit any additional patrons on its premises after the normal closing hours provided for in this Chapter, and further provided that the licensed establishment not advertise or indicate in any manner that it is still open for business after the normal closing hours provided for in this Section.
- B. If a disturbance occurs on the licensed premises during the hours referred to in the preceding paragraph, which appears to endanger the lives, property, or person of the patrons of a licensed premises, the sheriff or the local Liquor Control Commissioner, or his delegates, may order the licensed establishment to close its business until the next business day and may order all the patrons to leave the licensed premises immediately.

SECTION 5-1-22 SANITATION GENERALLY

All premises used for the retail sale of alcoholic liquor or for the storage of such liquor for retail sale shall be kept in a clean and sanitary condition and shall be kept in full compliance with the provisions of all ordinances of the City and health ordinances of the County regulating the condition of premises.

SECTION 5-1-23 WARNING TO MINORS

The City Clerk shall have printed and shall provide each licensee with a printed card which shall read substantially as follows:

"warning to minors – You are subject to a fine of up to One Thousand Dollars (\$1,000.00) and criminal prosecution, under the laws of the State of Illinois and the Ordinances of the City of West Peoria if you purchase alcoholic liquors for yourself or misrepresent your age for the purpose of purchasing or obtaining alcoholic liquor for yourself."

Every licensee shall display the printed card provided by the City Clerk in a prominent place in any location which he uses for the sale or serving of alcoholic liquor.

SECTION 5-1-24 DISPLAY OF OBSCENITY

No licensee shall permit, show, sell, exhibit, or display obscene or salacious matter, literature, motion pictures, cards, or papers on the licensed premises or permit any obscene exposure, behavior, or entertainment to occur on the premises.

SECTION 5-1-25 REPORTING OF INCIDENTS TO THE SHERIFF, TELEPHONE ON PREMISES

- A. Each licensee and each of his agents and employees shall promptly report to the County Sheriff's Department any outbreak of any fights, riots, disturbances of the peace occurring on or about the licensed premises and, in addition, shall promptly report to the Sheriff's Department any incident

occurring on or about the licensed premises which in the licensee's knowledge or opinion constitutes the commission of a crime as prohibited by the laws of the State or the United States, including any violation of this Section, and shall truthfully and fully answer all questions and investigations of any identified Sheriff's Commissioned Deputy who makes inquiry of any persons in or about the licensed premises, and cooperate fully in such investigation including the giving of any oral or written statements at such reasonable times and in such reasonable locations to any Sheriff's Commissioned Deputy engaged in said investigation.

- B. Each licensee shall maintain on each licensed premises not less than one (1) telephone in operating order, which telephone must be within the easy access of the bartender or other responsible person in charge of the premises, for the purpose of reporting to the Sheriff's Department incidents as described immediately above.

SECTION 5-1-26 ILLEGAL ACTIVITIES ON PREMISES

No licensee or any officer, associate, member, representative, agent, or employee of such licensee shall engage in any activity or conduct or suffer or permit any other person to engage in any activity or conduct in or about the licensed premises which is prohibited by any ordinance of the City of West Peoria or law of the State or the United States.

SECTION 5-1-27 EMPLOYMENT OF MINORS

- A. No licensee under this Chapter shall employ or permit any person under the age of twenty-one (21) to sell or serve alcoholic beverages or malt or vinaceous beverages; provided, however, any establishment holding a restaurant-liquor license may employ persons nineteen (19) years of age or older to sell or serve alcoholic beverages to patrons who are actually dining in the establishment when it is only incidental to their primary job function of serving food; but under no circumstances shall such person be employed or act as a bartender or cocktail waitress.
- B. No licensee under this Chapter shall employ or permit any person under the age of eighteen (18) to act in person as a live entertainer on a licensed premises whether or not such person is compensated; provided, however, nothing in this Section shall prohibit performances of persons under the age of eighteen (18) which are broadcast through radio, television, motion pictures, sound recordings or video tape.

SECTION 5-1-28 SALES TO PERSONS OF NON-AGE, INTOXICATED PERSONS, ETC.

No licensee or any officer, associate, member, representative, agent, or employee of such licensee shall sell, give, or deliver alcoholic liquor to any person under the age of twenty-one (21), or to any intoxicated person or to any person known by him to be a habitual drunkard, spendthrift, insane, mentally ill, mentally deficient or in need of mental treatment. No person after purchasing or otherwise obtaining alcoholic liquor shall sell, give, or deliver such alcoholic liquor to another person under the age of twenty-one (21) years except in performance of a religious ceremony or service; or as provided in this Chapter.

(State law reference: 235 ILCS 5/6-16.)

SECTION 5-1-29 PRESENCE OF PERSONS OF NON-AGE UPON LICENSED PREMISES

Any person to whom the sale, gift, or delivery of any alcoholic liquor is prohibited because of age shall not enter or remain upon any premises licensed for the sale of alcoholic liquor except in the company of his parent or legal guardian; provided, however, that this Section shall not apply to restaurants, grocery stores, universities, or to that portion of bowling alleys or auditoriums other than those rooms or portions used exclusively or primarily for the sale and consumption of alcoholic liquors, or to minors present in the course of their employment. In an establishment holding a B-1 liquor license, no person under the age of twenty-one (21) may be on the licensed premises at all after 10 p.m., unless with parent or guardian.

SECTION 5-1-30 SOLICITATION OF PATRONS BY EMPLOYEES

No licensee under this Section shall permit any employee or entertainer in the premises to solicit any patron thereof to purchase alcoholic or non-alcoholic beverages for such employee or entertainer or any other person on or in such licensed premises, or to solicit any patron to give or donate money or any other thing of value for any purpose; provided, however, that nothing herein contained shall prohibit any bartender, waiter, waitress who shall be regularly employed therein from accepting and serving an order of a patron in the regular course of his employment.

SECTION 5-1-31 CURB SERVICE

No curb service for the sale of alcoholic liquors shall be carried on in connection with premises for which a license has been granted for the sale of alcoholic liquor for consumption upon the premises, either upon the public street or private property contiguous to such premises so licensed.

SECTION 5-1-32 PEDDLING

It shall be unlawful for any person to peddle alcoholic liquor in the area of the City of West Peoria.

SECTION 5-1-33 MANAGER

No licensee shall employ any person to manage his licensed liquor establishment unless such person, firm, or corporation possesses the same qualifications required of a licensee other than residency by this Chapter. No licensee shall permit any person to act as a manager of his liquor establishment unless proper notification has been determined by the local Liquor Control Commissioner.

SECTION 5-1-34 CHANGE IN STOCKHOLDERS

Any corporate licensee shall notify the local Liquor Control Commissioner in writing not less than twenty-one (21) days prior to a transfer of its stock which would vest in the aggregate more than five (5) percent of the stock outstanding in said corporation, in any shareholder. Such corporate licensee shall suffer revocation of its license unless such stock transferee possesses the same qualifications required of a licensee except residency.

SECTION 5-1-35 HAPPY HOURS PROHIBITED

- A. All retail licensees shall maintain a schedule of the prices charged for all drinks of alcoholic liquor to be served and consumed on the licensed premises or in any room or part thereof. Whenever a hotel or multi-use establishment which holds a valid retailer's license operates on its premises more than one (1) establishment at which drinks of alcoholic liquor are sold at retail, the hotel or multi-use establishment shall maintain at such establishment a separate schedule of the prices charged for such drinks at that establishment.
- B. No retail licensee or employee or agent of such licensee shall:
 - 1. Sell more than one (1) drink of alcoholic liquor for the price of one (1) drink of alcoholic liquor;
 - 2. Sell, offer to sell, or serve to any person an unlimited number of drinks of alcoholic liquor during any set period of time for a fixed price, except at private functions not open to the general public, except as provided in Paragraph 3;
 - 3. (blank)

4. Increase the volume of alcoholic liquor contained in a drink, or the size of a drink of alcoholic liquor, without increasing proportionately the price regularly charged for the drink on that day;
5. Encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or the awarding of drinks of alcoholic liquor as prizes for such game or contest on the licensed premises; or
6. Advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under paragraphs a through e.

C. Permitted Happy Hours and Meal Packages, Party Packages, and Entertainment Packages

1. Definitions:

Dedicated event space: means a room or rooms or other clearly delineated space within a retail licensee's premises that is reserved for the exclusive use of party package invitees during the entirety of a party package. Furniture, stanchions and ropes, or other room dividers may be used to clearly delineate a dedicated event space.

Meal package: means a food and beverage package, which may or may not include entertainment, where the service of alcoholic liquor is an accompaniment to the food, including, but not limited to, a meal, tour, tasting or any combination thereof for a fixed price by a retail licensee or any other licensee operating within a sports facility, restaurant, winery, brewery, or distillery.

Party package: means a private party, function, or event for a specific social or business occasion, either arranged by invitation or reservation for a defined number of individuals, that is not open to the general public and where attendees are served both food and alcohol for a fixed price in a dedicated event space.

2. A retail licensee may:
3. Offer free food or entertainment.
4. Include drinks of alcoholic liquor as part of a meal package;
5. Sell or offer for sale a party package only if the retail licensee:
6. Offers food in a dedicated event space;
7. Limits the party package to no more than three (3) hours;
8. Distributes wristbands, lanyards, shirts or any other wearable items to identify party package attendees so the attendees may be granted access to the dedicated event space; and
9. Excludes individuals not participating in the party package from the dedicated event space.
10. Include drinks of alcoholic liquor as part of a hotel package;
11. Negotiate drinks of alcoholic liquor as part of a contract between a hotel or multi-use establishment and another group for the holding of any function, meeting, convention, or trade show;
12. Provide room service to persons renting rooms at a hotel;
13. Sell pitchers (or the equivalent, including but not limited to buckets) carafes, or bottles of alcoholic liquor which are customarily sold in such manner and delivered to two (2) or more persons at one time; or
14. Advertise events permitted hereunder;
15. Include drinks of alcoholic liquor as part of an entertainment package where the licensee is separately licensed by the City of West Peoria and the West Peoria ordinance that:
16. Restricts dates of operation to dates during which there is an event at an adjacent stadium;
17. Restricts house of serving alcoholic liquor to two (2) hours before the event and one (1) hour after the event;
18. Restricts alcoholic liquor sales to beer and wine;
19. Requires tickets for admission to the establishment; and
20. Prohibits sale of admission tickets on the day of an event and permits the sale of admission tickets for single day events only; and
21. Discount any drink of alcoholic liquor during a specified time period only if:

22. The price of the drink of alcoholic liquor is not changed during the time that it is discounted;
23. the period of time during which any drink of alcoholic liquor is discounted does not exceed four (4) hours per day and fifteen (15) hours per week; however, this period of time is not required to be consecutive and may be divided by the licensee in any manner;
24. the drink of alcoholic liquor is not discounted between the hours of 10:00 p.m. and the licensed premises' closing hour; and
25. notice of the discount of drink of alcoholic liquor during a specified time is posted on the licensed premises or on the licensee's publicly available website at least seven (7) days prior to the specified time. (Ord. 2015-25)

SECTION 5-1-36 GAMBLING PERMITTED

Any licensed liquor facility that is licensed by the City of West Peoria that has also received a video gaming license from the State of Illinois, pursuant to 230 ILCS 40/1 et seq., shall be hereby expressly authorized to allow said video gaming as is allowed by the State license under said Act to be engaged in on the licensed premises within the City of West Peoria. (Ord. 2018-03)

TITLE 5 BUSINESS REGULATIONS

CHAPTER 2 CANNABIS

- 5-2-1 Municipal Cannabis Retailers' Occupation Tax
- 5-2-2 Prohibited Cannabis Business Establishments
- 5-2-3 Definitions
- 5-2-4 Requirements and Conditions for License
- 5-2-5 License Required for Each Place Owned by Licensee; License not Transferable
- 5-2-6 Application forms; Application and Renewal Fees
- 5-2-7 Number of Dispensing Organization Licenses
- 5-2-8 Zoning Requirements
- 5-2-9 Display
- 5-2-10 Revocation or Suspension
- 5-2-11 Hours of Sale Generally
- 5-2-12 On-Site Consumption
- 5-2-13 Sanitation Generally

SECTION 5-2-1 MUNICIPAL CANNABIS RETAILERS' OCCUPATION TAX

A. Tax imposed; Rate

1. A tax is hereby imposed upon all persons engaged in the business of selling cannabis, other than cannabis purchased under the Compassionate Use of Medical Cannabis Pilot Program Act, at retail in the City at the rate of 3% of the gross receipts from these sales made in the course of that business.
2. The imposition of this tax is in accordance with the provisions of Section 8-11-22, of the Illinois Municipal Code (65 ILCS 5/8-11-22).

B. Collection of Tax by Retailers

1. The tax imposed by this Ordinance shall be remitted by such retailer to the Illinois Department of Revenue (Department). Any tax required to be collected pursuant to or as authorized by this Ordinance and any such tax collected by such retailer and required to be remitted to the Department shall constitute a debt owed by the retailer to the State. Retailers may reimburse themselves for their seller's tax liability hereunder by separately stating that tax as an additional charge, which charge may be stated in combination, in a single amount, with any State tax that sellers are required to collect.
2. The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Department. The Department shall have full power to administer and enforce the provisions of this article.

C. Severability

If any provision of this Ordinance, or the application of any provision of this Ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this Ordinance.

D. Effective Date

This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law, provided, however, that the tax provided for herein shall take effect for all sales on or after the first business day of January, 2020. Copies of this Ordinance shall be certified and sent by the Clerk to the Illinois Department of Revenue prior to September 30, 2019.

(Ord.2019-30)

A. Definitions

The following words and phrases shall, for the purposes of this Chapter, have the meanings respectively ascribed to them by this section, as follows:

Adult-use cannabis business establishment: A cultivation center, craft grower, processing organization, infuser organization, dispensing organization, or transporting organization.

Adult-use cannabis craft grower: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, dry, cure, and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization, per the Cannabis Regulation and Tax Act (410 ILCS 705/1-1 *et seq.*), as it may be amended from time-to-time, and regulations promulgated hereunder.

Adult-use cannabis cultivation center: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, process, transport, and perform necessary activities to provide cannabis and cannabis-infused products to licensed cannabis business establishments, per the Cannabis Regulation and Tax Act (410 ILCS 705/1-1 *et seq.*), as it may be amended from time-to-time, and regulations promulgated thereunder.

Adult-use cannabis dispensing organization: A facility operated by an organization or business that is licensed by the Illinois Department of Financial and Professional Regulation to acquire cannabis from licensed cannabis business establishments for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia or related supplies to purchasers or to qualified registered medical cannabis patients and caregivers, per the Cannabis Regulation and Tax Act (410 ILCS 705/1-1 *et seq.*), as it may be amended from time-to-time, and regulations promulgated thereunder.

Adult-use cannabis infuser organization or infuser: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product, per the Cannabis Regulation and Tax Act (410 ILCS 705/1-1 *et seq.*), as it may be amended from time-to-time, and regulations promulgated thereunder.

Adult-use cannabis processing organization or processor: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to either extract constituent chemicals or compounds to produce cannabis concentrate or incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis product, per the Cannabis Regulation and Tax Act (410 ILCS 705/1-1 *et seq.*), as it may be amended from time-to-time, and regulations promulgated thereunder.

Adult-use cannabis transporting organization or transporter: An organization or business that is licensed by the Illinois Department of Agriculture to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis Vocational Training Pilot Program, per the Cannabis Regulation and Tax Act (410 ILCS 705/1-1 *et seq.*), as it may be amended from time-to-time, and regulations promulgated thereunder.

Person: Any person, firm, corporation, association, club, society or other organization, including any owner, manager, proprietor, employee, volunteer or agent.

B. Cannabis Business Establishments Prohibited

The following Adult-Use Cannabis Business Establishments are prohibited in the City of West Peoria. No person shall locate, operate, own, suffer, or allow to be operated or aide, abet or assist in the operation within the City of West Peoria of any of the following:

1. Adult-Use Cannabis Craft Grower

2. Adult-Use Cannabis Cultivation Center

C. Public Nuisance Declared

Operation of any prohibited Cannabis Business Establishment within the City in violation of the provisions of this Chapter is hereby declared a public nuisance and shall be abated pursuant to all available remedies.

D. Violations

Violations of this Chapter may be enforced in accordance with the provisions of this Chapter.

E. Severability

If any provision of this Ordinance, or the application of any provision of this Ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this Ordinance.

F. Effective Date. This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law.

(Ord. 2019-41)

SECTION 5-2-3 DEFINITIONS

All words and phrases used in this Chapter and not otherwise defined herein, which are defined in the Cannabis Regulation and Tax Act, 410 ILCS 705/1-1 *et seq.*, as amended, shall have the meaning accorded to such words and phrases in said Act. In the event the meanings ascribed to these terms in the Act shall be changed by subsequent legislation, the words and phrases used in this Chapter shall follow the meanings as changed in the Act. Unless the context otherwise requires, the following terms as used in this Chapter shall be construed according to the definitions set forth below:

Cannabis: means marijuana, hashish, and other substances that are identified as including any parts of the plant *Cannabis sativa*, whether growing or not; the seeds thereof, the resin extracted from any part of the plant; and any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other naturally produced cannabinol derivatives. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination, nor does it include industrial hemp as defined in the Industrial Hemp Act.

Cannabis business establishment: means a processing organization, dispensing organization, or transporting organization.

Cannabis-infused product: means a beverage, food, oil, ointment, tincture, topical formulation, or another product containing cannabis that is not intended to be smoked.

Dispensary: means a facility operated by a dispensing organization at which activities licensed by the Act may occur.

Dispensing organization: means a facility operated by an organization or business that is licensed by the Department of Financial and Professional Regulation to acquire cannabis from a cultivation center, craft grower, processing organization, or another dispensary for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia, or related supplies under the Act to purchasers or to qualified registered medical cannabis patients and caregivers.

Infuser organization" or "infuser: means a facility operated by an organization or business that is licensed by the Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product.

Possession limit: means the amount of cannabis under Section 10-10 of the Cannabis Regulation and Tax Act that may be possessed at any one time by a person 21 years of age or older or who is a registered qualifying medical cannabis patient or caregiver under the Compassionate Use of Medical Cannabis Pilot Program Act.

Public place: means any place where a person could reasonably be expected to be observed by others. Public place includes all parts of buildings owned in whole or in part, or leased, by the State or a unit of local government. "Public place" does not include a private residence unless the private residence is used to provide licensed child care, foster care, or other similar social service care on the premises.

Purchaser means a person 21 years of age or older who acquires cannabis for a valuable consideration. Purchaser" does not include a cardholder under the Compassionate Use of Medical Cannabis Pilot Program Act.

Transporting organization or transporter: means an organization or business that is licensed by the Department of Agriculture to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis Vocational Training Pilot Program.

SECTION 5-2-4 REQUIREMENTS AND CONDITIONS FOR CONDITIONAL USE PERMIT

Permit shall be granted for the sale of cannabis or cannabis-infused products as defined in the statutes of this State, subject to the conditions hereinafter set forth. No person, either by himself or his agent, or any person acting as an agent of another, shall sell or offer for sale at retail in the City of West Peoria cannabis or cannabis-infused products without first having obtained a permit from the City to do so as hereinafter provided, and it shall likewise be unlawful for any person to sell or offer for sale any cannabis or cannabis-infused products in violation of the terms and conditions of such license.

SECTION 5-2-5 CONDITIONAL USE PERMIT REQUIRED FOR EACH PLACE OWNED BY PERMIT HOLDER; PERMIT NOT TRANSFERABLE

A separate permit shall be required for each individual cannabis business established operated by a licensee, and such license shall not be transferable from one licensee to another licensee, except in conformance with the laws of this State, then existing, with reference to the transfer of State licenses.

SECTION 5-2-6 APPLICATION FORMS; APPLICATION AND RENEWAL FEES

- A. All applicants for a permit for the sale of cannabis or cannabis-infused products at retail in the City shall make their application on forms provided by the City Administrator. The City Clerk shall prepare a sufficient quantity of the forms and shall provide the same to the applicant at no additional charge. Each applicant shall answer all questions on the application form which the City Administrator, in his/her discretion, believes necessary in order for the City Administrator to reach a determination.
- B. Each application for a permit to operate a cannabis business establishment within the City of West Peoria shall be accompanied by a nonrefundable payment of three hundred fifty dollars (\$350.00). This application fee shall be in addition to all other fees set forth in this Section and such application fee shall not be apportioned even though less than twelve (12) months remain in the license year, nor shall it be refunded in the event the application is denied.
- C. Each holder of a permit to operate a cannabis business organization shall pay a renewal fee of one thousand five hundred dollars (\$1,500.00) to be due on January 1 each year following receipt of the license, regardless of the month and date the initial license was granted.

- D. Permit to operate a cannabis dispensing organization within the City shall be issued at the sole discretion of the City of West Peoria and may be terminated and revoked at the sole discretion of the City of West Peoria for reasons deemed appropriate in the sole discretion of the City of West Peoria.

SECTION 5-2-7 NUMBER OF CONDITIONAL USE PERMITS

The City authorizes the following organizations, as defined herein, to operate within the City and obtain permit to operate within the City. The number of permits authorized by the City shall include those dispensing organizations also operating with a medical cannabis dispensing license under the Compassionate Use of Medical Cannabis Pilot Program Act.

Cannabis Business Establishment	Number of available permits
Medical	2
Dispensing Organization	2
Infuser Organization	2
Processing Organization	2
Transportation Organization	2

SECTION 5-2-8 ZONING REQUIREMENTS

No permit shall be issued or renewed for the sale at retail of any cannabis or cannabis-infused product unless the use of the premises for the retail sale or distribution of cannabis or cannabis-infused products is a “special use” as defined in Title 2, Chapter 6 of the City Code Book of the City of West Peoria.

SECTION 5-2-9 DISPLAY OF LICENSE

Every licensee shall cause his local permit to be framed and hung in plain view in a conspicuous place on the licensed premises.

SECTION 5-2-10 REVOCATION OR SUSPENSION OF PERMIT

- A. The City Council may, after proper hearing, fine, revoke, or suspend for not more than thirty (30) business days any permit issued by the City under the terms of this Chapter, for any of the following reasons:
1. Violation of any of the provisions of this Chapter or any violation of any provision of the laws of the State relating to the sale of cannabis or cannabis-infused products.
 2. The willful making of false statements as to a material fact in an application for a permit or the renewal thereof; however, no such license shall be revoked or suspended except after a public hearing by the City Council with a three (3) business days written notice to the licensee affording said licensee an opportunity to appear and defend.
 3. If the City Council has reason to believe that any continued operation of a particular licensed premises will immediately threaten the welfare of the community, he may, upon the issuance of a written order stating the reason for such conclusion, and without notice or hearing, order the licensed premises closed for not more than seven (7) business days, giving the licensee any opportunity to be heard during that period.
- B. In lieu of suspension or revocation, the City Council may instead levy a fine on the licensee for such violations. The fine imposed shall not exceed one thousand dollars (\$1,000.00) for each

violation; each business day on which a violation continues shall constitute a separate violation. Not more than ten thousand dollars (\$10,000.00) in fines under this Section may be imposed against any licensee during the period of his permit without additional hearings. Proceeds from such fines shall be paid into the general corporate fund.

- C. The City Council, upon probable cause that a violation of this Chapter or any violation of any provision of the laws of this State relating to the sale of cannabis or cannabis-infused products has occurred, shall cause a written notice to appear to be issued to the permit. Such notice to appear shall inform the licensee of the nature of the charges and set a time and place for hearing not less than three (3) business days from the date of the notice.
- D. Such hearing shall be public and a verbatim transcript shall be made. The licensee may be represented by legal counsel licensed to practice law in the State. All witnesses shall testify under oath administered by the City Clerk or other person authorized to administer such oath in Illinois. Such hearing need not be conducted according to the strict rules of evidence and procedure followed in a court of law; however, such hearings shall be conducted in a fair and impartial manner to all concerned. On motion of the licensee, the three (3) business day written notice of hearing may be waived in whole or in part. Any licensee may, at his option, waive his right to a public hearing on the suspension or revocation of his / her permit. In such an event, the City Council may order any suspension, revocation, or make any other order which would be appropriate upon a finding of a violation at the conclusion of a public hearing. The licensee shall indicate such waiver in writing to the City Council at any time prior to the commencement of the actual public hearing.
- E. The City Council shall within five (5) business days after such hearing, if it determines after such hearing that the permit should be revoked, or suspended, state the reason or reasons for such determination in a written order of revocation or suspension and shall serve a copy of such order within the said five (5) business days upon said permit holder.
- F. Any five (5) residents of the City shall have the right to file a complaint with the City Council stating that any retailer permit, subject to the jurisdiction of the City, has been or is violating the provisions of the Act or the rules or regulations issued pursuant thereto. Such complaint shall be in writing in the form prescribed by the City and shall be signed and sworn to by the parties complaining. The complaint shall state the particular provision, rule, or regulation believed to have been violated and the facts in detail upon which belief is based. If the City Council is satisfied that the complaint substantially charges a violation and that from the facts alleged there is reasonable cause for such belief, it shall set the matter for hearing and shall serve notice upon the licensee of the time and place of such hearing and of the particular charge in the complaint.

SECTION 5-2-11 HOURS OF SALE GENERALLY

- A. No dispensing organization holding a permit to operate within the City shall sell or offer for sale at retail, any cannabis or cannabis-infused products or furnish or give away, or allow or permit the same to be consumed on the licensed premises, or any other premises under the control, directly or indirectly, of the licensee between the hours of 10:00 p.m. and 7:00 a.m. on all days.
- B. No person other than the holder of a permit to operate dispensing organization or any of the licensee's employees while actually in the performance of their duties shall be permitted to enter or remain upon the premises, nor shall any person consume any cannabis or cannabis-infused product on such premises, nor shall any cannabis or cannabis-infused product be exposed upon such premises in any open container beyond thirty (30) minutes after the prescribed closing time for such licensed premises.

- C. It shall be unlawful to keep open for business or to permit the public to patronize any premises where cannabis or cannabis-infused products are sold at retail during the hours within which the sale of such cannabis or cannabis-infused products is prohibited.

SECTION 5-2-12 ON-SITE CONSUMPTION

The City authorizes permitted dispensing organizations to allow on-site consumption of cannabis and cannabis-infused products in a manner consistent with the Cannabis Regulation and Tax Act (410 ILCS 705/1-1 *et seq.*), and such organizations shall not be deemed a public place within the meaning of the Smoke Free Illinois Act.

SECTION 5-2-13 SANITATION GENERALLY

All premises used for the retail sale of cannabis or cannabis-infused products, or for the storage of such cannabis or cannabis-infused products, shall be maintained in a clean and sanitary condition pursuant to the Cannabis Regulation and Tax Act, 410 ILCS 705/1-1 *et seq.*

(Ord. 2019-42)

TITLE 5 BUSINESS REGULATIONS

CHAPTER 3 ADULT BUSINESSES

- 5-3-1 Definitions
- 5-3-2 Limitations on Adult Uses
- 5-3-3 Measurement of Distance
- 5-3-4 License Required; Filing of Application; Filing Fees
- 5-3-5 Contents of Application For License
- 5-3-6 Issuance of Adult Use License
- 5-3-7 Suspension or Revocation of License For Adult use
- 5-3-8 Display of License and Permit
- 5-3-9 Employment of Persons Under Age 18 Prohibited
- 5-3-10 Illegal Activities on Premises

SECTION 5-3-1 DEFINITIONS

Adult Bookstore: Any establishment that has as its stock in trade, or any significant or substantial portion thereof, books, magazines, films, records, recording tapes, video tapes, or other periodicals, for sale or for viewing either on or off the premises, which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, or any establishment that holds itself out to the public as a purveyor of such based upon its signage, advertising, displays, actual sales, presence of video preview or coin operated booths, exclusions of minors from the establishment's premises, or any other factors showing the establishment's primary purpose is to purvey such material.

Adult Device Store: An establishment having as a substantial portion of its stock in trade any device, appliance, instrument, or object which is represented either by the operator of the establishment or by its packaging, advertising, or other literature furnished therewith as enhancing, assisting, representing, depicting, or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section devoted to the sale or display of such material, or any establishment that holds itself out to the public as a purveyor of such based upon its signage, advertising, displays, actual sales, presence of video preview or coin operated booths, exclusions of minors from the establishment's premises, or any other factors showing the establishment's primary purpose is to purvey such material.

Adult Entertainment Cabaret: A public or private establishment which is licensed to serve food and/or alcoholic beverages, which features entertainers, dancers, waitresses, waiters, or any other employees acting in such a way as to display, depict, describe, or relate to specified sexual activities or specified anatomical areas for observation by patrons therein.

Adult Mini Motion Picture Theater: An enclosed building or drive-in theater with a capacity of less than fifty (50) persons used regularly and routinely for presenting motion pictures having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

Adult Motion Picture Theater: An enclosed building or drive-in theater with a capacity of fifty (50) or more persons used regularly and routinely for presenting motion pictures having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

Adult Use: Adult bookstores, adult device stores, adult entertainment cabarets, adult mini motion picture theaters, adult motion picture theaters, body shops, model studios, and massage establishments.

Body Shop or Model Studio: Any public or private establishment which describes itself as a body shop or model studio, or where for any form of consideration or gratuity figure models who display specific

anatomical areas are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such consideration or gratuity, or where for any form of consideration or gratuity nude or semi-nude dancing, readings, counseling sessions, body painting, and other activities that present materials distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas are provided for observation by or communication to persons paying such consideration or gratuity.

Building Structure: Any structure or group of structures housing two (2) or more businesses which share a common entry, exit, wall or frontage wall, including, but not limited to, shopping centers, shopping plazas, or shopping squares.

Massage: Any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the body with the hands or other parts of the human body or with the aid of any mechanical or electrical apparatus or appliance with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments, or other similar preparations commonly used in this practice.

Massage Establishment: An establishment having a fixed place of business where any person, firm, association, or corporation engages in or carries on or permits to be engaged in or carried on any of the activities mentioned in the definition of massage in this Section; provided, however, that the term massage establishment shall not apply to the following:

- A. Hospitals, nursing homes, or sanitarium; or
- B. Barber shops or cosmetology establishments, not operated as a home occupation as defined under the West Peoria Zoning Regulations, where a barber or cosmetologist, holding a valid, unrevoked license or certificate of registration issued by the State of Illinois and a valid, unrevoked masseur permit issued by the City of West Peoria, administers a massage in conjunction with and incidental to the lawful performance of the barber's or cosmetologist's particular profession or business; or
- C. Barber shops or cosmetology establishments, not operated as a home occupation as defined under the West Peoria Zoning Regulations, where a barber or cosmetologist, holding a valid, unrevoked license or certificate of registration issued by the State of Illinois, allows a person holding a valid, unrevoked license or certificate of registration issued by the State of Illinois and a valid, unrevoked masseur permit issued by the City of West Peoria and working under the direction of the barber or cosmetologist, to administer a massage in conjunction with and incidental to the lawful performance of the barber's or cosmetologist's particular profession or business.

Nudity: The showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

Specified Anatomical Areas: Any of the following:

- A. Less than completely and opaquely covered:
 - 1. Human genitals, pubic region, or pubic hair; or
 - 2. Buttock; or
 - 3. Female breast below a point immediately above the top of the areola; and
- B. Human male genitals in a discernibly turgid state, even if completely covered and opaquely covered.

Specified Sexual Activities: Any of the following conditions:

- A. The performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law.
- B. The actual or simulated touching, caressing, or fondling of the breast, buttocks, anus, or genitals.

- C. The actual or simulated display of the breasts, buttocks, pubic hair, anus, vulva, or genitals.
- D. Excretory or urinary function as part of or in conjunction with any activities set forth in Paragraphs a through c of this Subsection.

SECTION 5-3-2 REQUIRED AND CONDITIONS FOR LICENSE LIMITATIONS ON ADULT USES

Adult uses shall be permitted subject to the following restrictions:

- A. An adult use shall not feature:
 - 1. A person who knowingly or intentionally, in a public place;
 - 2. Engages in sexual intercourse; or
 - 3. Engages in deviant sexual conduct; or
 - 4. Appears in a state of nudity; or
 - 5. Fondles the genitals of himself or another person.
- B. All adult uses shall be located only in B-1, General Business District, with a special use permit, and B-2, Highway and Service Business District, with a special use permit, and within such districts an adult use shall not be located within seven hundred-fifty (750) feet of another pre-existing adult use.
- C. An adult use shall not be located within five hundred (500) feet of a pre-existing school or place of worship.
 - 1. An adult use shall not be located in a building structure which contains another business that sells or dispenses in some manner alcoholic beverages.
 - 2. Any adult use doing business at the time this chapter takes effect shall have one (1) year from the effective date hereof to comply with the provisions of Subsections A through D of this Section.
 - 3. Any adult use doing business at the time this Chapter takes effect shall have thirty (30) days from the effective date hereof for the issuance of an adult use license.

No adult use shall be conducted in any manner that permits the observation of any material depicting, describing, or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window, or other opening from any public way or from any property not registered in the license as the location where the adult use is to be operated.

SECTION 5-3-3 MEASURE OF DISTANCE

For the purposes of this Chapter, measurements shall be made in a straight line, without regard to intervening structures or objects, from the property line of the lot or parcel containing the adult use to the property line of the lot or parcel containing the nearest adult use, school or place of worship.

SECTION 5-3-4 LICENSE REQUIRED; FILING OF APPLICATION; FILING FEES

It shall be unlawful for any person to engage in, conduct, carry on, or to permit to be engaged in, conducted, or carried on, in or upon any premises in the City of West Peoria, the operation of an adult use as herein defined without first having obtained a separate license for such adult use from the Mayor.

Every applicant for a license to maintain, operate, or conduct an adult use shall file an application in duplicate under oath with the Mayor upon a form provided by the City Clerk and pay a non-refundable filing fee, which shall be set by the City Council by resolution as it shall deem necessary from time to time, to the City Clerk, who shall issue a receipt, which shall be attached to the application filed with the Mayor. See Title 11, Fee Schedule.

Within thirty (30) days after receiving the application, the Mayor shall notify the applicant that his application is granted, denied, or held for further investigation. Such additional investigation shall not

exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigation, the Mayor shall advise the applicant in writing whether the application is granted or denied.

When an application is denied or held for further investigation, the Mayor shall advise the applicant in writing of the reason for such action.

Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application, or his or her refusal to submit to or cooperate with any inspection or investigation required by this Chapter shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the Mayor.

SECTION 5-3-5 CONTENTS OF APPLICATION FOR LICENSE

The term "applicant" as used in this Chapter shall include any partner or limited partner of a partnership applicant and any officer or director of a corporate applicant and any stockholder holding more than ten (10) percent of the stock of a corporate applicant and any manager or member of a limited liability company or any other person who is interested directly in the ownership or operation of the business. An applicant for a license shall furnish the following information under oath:

- A. Name and address; and
- B. Written proof that the individual is at least eighteen (18) years of age; and
- C. Location of where the adult business is to be operated.

SECTION 5-3-6 ISSUANCE OF ADULT LICENSE

The Mayor shall issue a license to maintain, operate, or conduct an adult use unless he finds:

- A. That the applicant is under the age of eighteen (18) years or under any legal disability; or
- B. The location where the adult business is proposed to be operated does not comply with the limitations set forth in Section 5-3-2 of this Chapter.
- C. The applicant or an owner of applicant or the person in control has any sex-based felony, violent crime felony, or felony involving moral turpitude or dishonesty convictions within the last ten (10) years.

(Ord. 2015-30)

"Person in control" shall be deemed to include any person who, through ownership or management position, exerts or can rightfully exert control over the operations of a licensed adult use business.

(Ord. 2015-30)

Every adult use license issued pursuant to this Chapter will terminate at the expiration of one (1) year from the date of its issuance, unless sooner revoked.

SECTION 5-3-7 SUSPENSION OR REVOCATION OF LICENSE FOR ADULT USE

Any license issued for an adult use may be revoked or suspended by the Mayor if the Mayor shall find:

- A. That the licensee has violated any of the provisions of this Chapter regulating adult uses; or
- B. That the licensee has knowingly furnished false or misleading information or withheld relevant information on any application for any license or permit required by this Chapter or knowingly caused or suffered another to furnish or withhold such information on his or her behalf.

The licensee shall be responsible for the acts of his agents, servants, and employees; provided, however, that in the case of a first offense by a licensee where the conduct was solely that of an

employee, the penalty shall not exceed a suspension of thirty (30) days if the Mayor shall find that the licensee had no actual or constructive knowledge of such violation and could not in the exercise of due diligence have had such actual or constructive knowledge.

The Mayor, before revoking or suspending any license, shall give the licensee at least ten (10) days written notice of the charges against him or her. The licensee may, within five (5) days of receipt of said notice, request a public hearing before the Mayor at which time the licensee may present evidence bearing upon the question. Any notice by the Mayor may be delivered personally to the licensee or be posted on the premises where the adult use is located.

SECTION 5-3-8 DISPLAY OF LICENSE AND PERMIT

Every licensee shall display a valid license in a conspicuous place within the premises where the adult use is operated so that it may be readily seen by persons entering the premises.

SECTION 5-3-9 EMPLOYMENT OF PERSONS UNDER 18 PROHIBITED

It shall be unlawful for any adult use licensee or his manager or employee to employ in any capacity within the adult business any person who is not at least eighteen (18) years of age.

SECTION 5-3-10 ILLEGAL ACTIVITIES ON PREMISES

No licensee or any officer, associate, member, representative, agent, or employee of such licensee shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the licensed premises which is prohibited by an ordinance of the City of West Peoria or laws of the State of Illinois or of the United States.

(Ord. 1999-16)

TITLE 5: BUSINESS REGULATIONS

CHAPTER 4 MESSAGE BUSINESSES

- 5-4-1 Definitions
- 5-4-2 Operating Requirements
- 5-4-3 Advertising
- 5-4-4 Off-Site Services
- 5-4-5 Employment of Person Under the Age of 18 is Prohibited
- 5-4-6 Employment of Masseurs and Masseuses
- 5-4-7 Display
- 5-4-8 Time Limit for Filing Application for Permit
- 5-4-9 Review
- 5-4-10 Violation and Penalty
- 5-4-11 Maintaining Public Nuisance
- 5-4-12 Nonapplicability of Article
- 5-4-13 Establishment Permit Required
- 5-4-14 Filing of Application and Fee
- 5-4-15 Application Contents
- 5-4-16 Issuance
- 5-4-17 Transfer
- 5-4-18 Revocation or Suspension
- 5-4-19 Required; Application Generally; Fee
- 5-4-20 Application Contents
- 5-4-21 Issuance
- 5-4-22 Revocation or Suspension

Persons engaged in the provision of massage for compensation must obtain a license pursuant to the Massage Licensing Act from the Department of Professional Regulation. (Ord. 2007-08)

SECTION 5-4-1 DEFINITIONS

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Employee: means any and all persons other than the masseurs or masseuses, who render any service to the permittee, who receive compensation directly from the permittee, and who have no physical contact with customers and clients.

Massage: means any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external soft parts of the body with the hands or other parts of the human body, or with the aid of any mechanical or electrical apparatus or appliance, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in this practice.

Massage Therapist: means a graduate with a minimum of five hundred (500) hours of education in massage therapy from an institution that is approved or accredited by the Illinois State Board of Education or holds current certification from the National Certification Board for Therapeutic Massage and Bodywork. (Ord. 2000-09)

Massage Therapy Facility: means any establishment having a fixed place of business where any person engages in or carries on, or permits to be engaged in or carried on, any of the activities mentioned under definition of "massage" in this Section provided, however, that the term massage therapy facility shall not apply to the following:

- A. Hospitals, nursing homes or sanitarium; or
- B. Barber shops or cosmetology establishments, not operated as a home occupation as defined under the West Peoria Zoning Regulations where a barber or cosmetologist, holding a valid, unrevoked license or certificate of registration issued by the State of Illinois and a valid, unrevoked masseur permit issued by the City, administers a massage in conjunction with and incidental to the lawful performance of the barber's or cosmetologist's particular profession or business; or
- C. Barber shops or cosmetology establishments, not operated as a home occupation as defined under the West Peoria Zoning Regulations, where a barber or cosmetologist, holding a valid, unrevoked license or certificate of registration issued by the State of Illinois, allows a person, holding a valid unrevoked licensee or certificate of registration issued by the State of Illinois, allows a person, holding a valid unrevoked masseur or masseuse permit issued by the City and working under the direction of the barber or cosmetologist, to administer a massage in conjunction with and incidental to the lawful performance of the barber's or cosmetologist's particular profession or business.

Masseur or masseuse: means any person who, for any consideration whatsoever, engages in the practice of massage as herein described.

Off-site Service: means any business, the function of which is to engage in or carry on massages at a location designated by the customer or client rather than at a massage establishment.

Permittee: means the operator of a massage therapy facility.

Sexual or Genital Area: means the genitals, pubic area, buttocks, anus or perineum of any person, or the vulva or breasts of a female.

SECTION 5-4-2 OPERATING REQUIREMENTS

- A. Every massage establishment in the City shall conform to the following operating requirements:
- B. Every portion of the establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.
- C. Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.
- D. All employees, including masseurs and masseuses, shall be clean and wear clean, nontransparent outer garments, covering the sexual and genital areas, whose use is restricted to the massage establishment. A separate dressing room for each sex must be available on the premises with individual lockers for each employee. Doors to such dressing rooms shall open inward and shall be self-closing.
- E. The sexual or genital area of patrons must be covered by towels, cloths or undergarments when in the presence of employees, masseurs or masseuses.
- F. It shall be unlawful for any person, knowingly, in a massage therapy facility to place his hand upon, to touch with any part of his body, to fondle in any manner, or to massage, a sexual or genital area of any other person.
- G. No masseur or masseuse, employee or operator shall perform, offer or agree to perform, any act, which would require the touching of the patron's genital area.
- H. Oils, creams, lotions or other preparations used in administering massages shall be kept in clean, closed containers or cabinets.
- I. Eating in the massage work area shall not be permitted. Animals, except for Seeing-Eye dogs, shall not be permitted in the massage work areas.

- J. No masseur or masseuse shall administer a massage to a patron exhibiting any skin fungus, skin infection, skin inflammation or skin eruption, unless a physician duly licensed by the State certifies in writing that such person may be safely massaged prescribing the conditions thereof.
- K. Each masseur and masseuse shall wash his hands in hot running water, using a proper soap or disinfectant before administering a massage to each patron.
- L. No massage therapy facility shall allow any massage to be performed except by a person holding a masseur or masseuse permit hereunder and who is a graduate with a minimum of five hundred (500) hours of education in massage therapy from an institution that is approved or accredited by the Illinois State Board of Education or holds current certification from the National Certification Board for Therapeutic Massage and Bodywork.

SECTION 5-4-3 ADVERTISING

No massage therapy facility granted a permit under provisions of this Article shall place, publish or distribute or cause to be placed, published or distributed any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective patrons that any services are available other than those services described under the definition of "massage" above, or that employees, masseurs or masseuses are dressed in any manner other than prescribed in the portion of this Section headed "Operating Requirements"; nor shall any massage therapy facility indicate in the text of such advertising that any services are available other than those services described in the definition of "massage" above.

SECTION 5-4-4 OFF-SITE SERVICES

No "out-call massage service" may be operated other than by a licensed massage therapy facility. All massages performed as an "out-call massage service" must be performed in the manner prescribed elsewhere in this Section.

SECTION 5-4-5 EMPLOYMENT OF PERSON UNDER THE AGE OF 18 IS PROHIBITED

It shall be unlawful for any owner, proprietor, manager or other person in charge of any massage therapy facility to employ any person who is not at least eighteen (18) years of age.

SECTION 5-4-6 EMPLOYMENT OF MASSEURS AND MASSEUSES

It shall be the responsibility of the permittee for the massage therapy facility or the employer of any persons purporting to act as masseurs or masseuses to ensure that each person employed as a masseur or masseuse shall first have obtained a valid permit pursuant to this Section.

SECTION 5-4-7 DISPLAY

Every permittee under this Article shall display a valid permit in a conspicuous place within the massage therapy facility so that persons entering the premises readily see the same.

SECTION 5-4-8 TIME LIMIT FOR FILING APPLICATION FOR PERMIT

Applications for renewal of permits under this Section must be filed not more than two (2) months nor less than one (1) month prior to termination of any existing permit.

SECTION 5-4-9 REVIEW

The decision of the Mayor with regard to the issuance, suspension or revocation under this Section shall be reviewable under the Illinois Administrative Review Act.

SECTION 5-4-10 VIOLATION AND PENALTY

Every person except those persons who are specifically exempted by this Article, whether acting as an individual, owner, employee of the owner, operator or employee of the operator, or whether acting as a mere helper for the owner, employee or operator, or acting as a participant or worker in any way, who gives massages or conducts a massage therapy facility without first obtaining a permit and paying a license fee to do so from the City, or shall violate any of the provisions of this Article shall be guilty of a misdemeanor. Upon conviction, such person shall be punished by a fine of at least One Hundred (\$100.00) Dollars, but no more than Seven Hundred Fifty (\$750.00) Dollars.

SECTION 5-4-11 MAINTAINING PUBLIC NUISANCE

Any building used as a massage therapy facility in violation of this Article with the intentional, knowing, reckless or negligent permission of the owner thereof, or the agent of the owner managing the building, together with fixtures and other property used in violation of this article are hereby declared to be a nuisance.

SECTION 5-4-12 NONAPPLICABILITY OF ARTICLE

This Article shall not apply to hospitals, nursing homes or sanitarium.

SECTION 5-4-13 ESTABLISHMENT PERMIT REQUIRED

It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City, the operation of a massage therapy facility as herein defined, without first having obtained a permit from the Mayor.

SECTION 5-4-14 FILING OF APPLICATION AND FEE

- A. Every applicant for a permit to maintain, operate or conduct a massage therapy facility shall file an application in duplicate under oath with the City Clerk upon a form provided by the City Clerk and pay a nonrefundable filing fee to the City Clerk in an amount determined by City Council resolution as it shall deem necessary from time to time, who shall issue a receipt which shall be attached to the application filed with the Mayor.
- B. Whenever an application is denied or held for further investigation, the Mayor shall advise the applicant in writing of the reasons for such action.
- C. The failure or refusal of the applicant to promptly give any information relevant to the investigation of the application or his refusal or failure to appear at any reasonable time and place for examination under oath, regarding such application or his refusal to submit to or cooperate with any inspection required by this Section shall constitute an admission by the applicant that he is ineligible for such permit and shall be grounds for denial thereof by the Mayor.

SECTION 5-4-15 APPLICATION CONTENTS

- A. The application for a permit to operate a massage therapy facility shall set forth the exact nature of the massage to be administered, and the proposed place of business and facilities therefore.
- B. In addition to the foregoing, any applicant for a permit, including any partner or limited partner of a partnership applicant, and any officer or director of a corporate applicant and any stockholder holding more than ten percent of the stock of a corporate applicant, shall furnish the following information:
 - 1. Name and address.
 - 2. Written proof that the individual is at least eighteen (18) years of age.

3. All residential addresses for the past three (3) years.
4. The applicant's height, weight, color of eyes and hair.
5. The business, occupation or employment of the applicant for the three (3) years immediately preceding the date of application.
6. The massage or similar business license history of the applicant; whether such person, in previously operating in this or another city or state under license, has had such license revoked or suspended, the reason therefore, and the business activity or occupation subsequent to such action of suspension or revocation.
7. All criminal or City ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
8. If the applicant is a corporation, or a partner of a partnership in a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation and the state of incorporation shall be set forth.

SECTION 5-4-16 ISSUANCE

- A. Upon receipt of the application and fee, the Mayor shall issue a permit to maintain, operate or conduct a massage therapy facility, unless he finds:
 1. That the operation, as proposed by the applicant, if permitted, would not have complied with all applicable laws, including but not limited to, the building, health, planning, housing, zoning and fire codes of the City;
 2. That the applicant and any other person who will be directly or indirectly engaged in the management and operation of a massage therapy facility have ever been convicted of:
 3. A felony;
 4. An offense involving sexual misconduct with children; or
 5. Prostitution, soliciting for a prostitute, pandering, keeping a place of prostitution, pimping or other offense opposed to decency and morality.
- B. The Mayor is, by the filing of an application, authorized to conduct a criminal background check of the applicant. The Mayor, at his discretion, may issue a permit to any person convicted of any of the crimes in Paragraph (a) (2) of this Section if he finds that such conviction occurred at least four (4) years prior to the date of application, the applicant has had no subsequent convictions and the applicant has shown evidence of rehabilitation sufficient to warrant the public trust.
- C. Every massage therapy facility permit issued pursuant to this division will terminate at the expiration of one year from the date of its issuance, unless sooner suspended or revoked.

SECTION 5-4-17 TRANSFER

No permit for the operation of a massage therapy facility issued pursuant to the provisions of this division shall be transferable except with the written consent of the

Mayor; provided, however, that upon the death or incapacity of the permittee the massage therapy facility may continue in business for a reasonable period of time to allow for an orderly transfer of the permit.

SECTION 5-4-18 REVOCATION OR SUSPENSION

- A. Any permit issued for a massage therapy facility may be revoked or suspended by the Mayor after a hearing for good cause or in any case where any of the provisions of this division are violated or any employee of the permittee, including a masseur or masseuse, is engaged in any conduct at permittee's place of business, which violates any of the provisions of this division or any State law which provides for imprisonments, and permittee has actual or constructive knowledge of such violations or the permittee should have actual or constructive knowledge by due diligence, or where any applicant has made a false statement on an application for a permit under this division or in

any case where the permittee or licensee refuses to permit any duly authorized police officer of health inspector of the City and the County to inspect the premises or the operations therein. Such permit may also be revoked or suspended by the Mayor after hearing upon the recommendation of the Code Enforcement Officer that such business is being managed, conducted or maintained without regard for the public health or health of patrons or customers without due regard to proper sanitation or hygiene.

- B. Any violation of this Section by any employee of the permittee, including a masseur or masseuse, shall be cause for suspension of the permit for not more than thirty (30) days in the first instance. Any subsequent violation of this Article by any employee of the permittee, including a masseur or masseuse, shall be cause for suspension or revocation of the permit.
- C. The Mayor, before revoking or suspending any permit, shall give the permittee at least ten (10) days' written notice of the charges against him and the opportunity for a public hearing before the Mayor, at which time the permittee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.

SECTION 5-4-19 REQUIRED; APPLICATION GENERALLY; FEE

Any person, including an applicant for massage therapy facility permit, who engages in the practice of massage shall file an application for a masseur or masseuse permit with the City Clerk upon a form provided by the City Clerk and shall pay a nonrefundable filing fee for an original application and for a renewal application to the City Clerk in an amount as determined by City Council resolution as it shall deem necessary from time to time, who shall issue a receipt which shall be attached to the application filed with the Mayor.

SECTION 5-4-20 APPLICATION CONTENTS

The application for a masseur or masseuse permit shall contain the following:

- A. Name and residence address.
- B. Social Security number and driver's license number, if any.
- C. Applicant's weight, height, color of eyes and hair.
- D. Written evidence that the applicant is at least eighteen (18) years of age.
- E. Business, occupation or employment of the applicant for the three (3) years immediately preceding the date of application.
- F. Whether the applicant has ever been convicted of, pleaded nolo contender to or suffered forfeiture on a bond charge of committing any crime except minor traffic violations. If the answer is in the affirmative, a statement must be made giving the place and the court in which such conviction plea or forfeiture was had, the specific charge under which the conviction plea or forfeiture was obtained and the sentence imposed as a result thereof.
- G. Evidence that said person is a graduate with a minimum of five hundred (500) hours of education in massage therapy from an institution that is approved or accredited by the Illinois State Board of Education or holds current certification from the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB). Such evidence must include, at a minimum, where the applicant is not certified by the NCBTMB, a transcript from such an accredited institution showing the completion of said five hundred (500) hours of education.

SECTION 5-4-21 ISSUANCE

- A. The Mayor may issue a masseur or masseuse permit within twenty-one (21) days following application, unless he finds that the applicant for masseur or masseuse permit is not qualified as

specified in Subparagraph (7) of the above Section entitled “Application Contents” or has been convicted of:

1. A felony;
 2. An offense involving sexual misconduct with children; or
 3. Keeping or residing in a house of ill fame, solicitation of a lewd or unlawful act, prostitution or pandering.
- B. The Mayor, in his discretion, may issue a permit to any person convicted of such crimes if he finds that such conviction occurred at least four (4) years prior to the date of the application and the applicant has had no subsequent convictions.
- C. Every masseur or masseuse permit issued pursuant to this division shall terminate at the expiration of one (1) year from the date of its issuance, unless sooner suspended.

SECTION 5-4-22 REVOCATION

- A. A masseur or masseuse permit issued by the Mayor shall be revoked or suspended where it appears that the masseur or masseuse has been convicted of any offense which would be cause for denial of a permit upon an original application, has made a false statement on an application for a permit, or has committed an act in violation of this article.
- B. The Mayor in revoking or suspending a masseur or masseuse permit shall give the permit holder a written notice specifying the grounds therefor. Such person may within ten (10) days of such revocation or suspension file a written request with the Mayor for a hearing before the Mayor, at which time the masseur or masseuse may present evidence bearing upon the question.

(Ord. 2000-23)

TITLE 5 BUSINESS REGULATIONS

CHAPTER 5 PAWNBROKERS

- 5-5-1 Definitions
- 5-5-2 License required
- 5-5-3 License application
- 5-5-4 Application Fees
- 5-5-5 Bond
- 5-5-6 License Fee
- 5-5-7 Issuance of license
- 5-5-8 Duration of license
- 5-5-9 Transferability of license
- 5-5-10 Possession and display of license required
- 5-5-11 Signed memorandum, contract, or note
- 5-5-12 Records required
- 5-5-13 Identification required
- 5-5-14 Inspection
- 5-5-15 Daily report
- 5-5-16 Property from minor
- 5-5-17 Property from intoxicated person or thief; Return of stolen property
- 5-5-18 Sale of property
- 5-5-19 Employment of minor prohibited
- 5-5-20 Hours of business
- 5-5-21 Weapons
- 5-5-22 Penalty
- 5-5-23 Revocation of license

SECTION 5-5-1 DEFINITIONS

Pawnbroker: shall mean every person or company engaged in the business of receiving tangible personal property in pledge or as security for money or other thing advance to the pawner or pledger.

SECTION 5-5-2 LICENSE REQUIRED

It shall be unlawful for any person to do business as a pawnbroker within the City without having first obtained a license therefore.

SECTION 5-5-3 LICENSE APPLICATION

Application for a license to do business as a pawnbroker within the City shall be made in writing to the City Clerk on a form provided by the City Clerk for that purpose and must state thereon the following information:

- A. The name of applicant
- B. The permanent business address of the applicant.
- C. The permanent business telephone number of the applicant.
- D. In the case of a firm, limited liability company, or corporation, the names, permanent residence addresses, and permanent residence telephone numbers of the partners or officers and all shareholders owning more than five percent (5%) of the outstanding shares of stock. If a listed shareholder is a firm, limited liability company, or corporation, the above information shall be provided for that entity and other such entities in the line of ownership.

- E. The location of the property for which the license is requested.
- F. Whether the applicant, partners, officers, or listed shareholders have been convicted of any criminal offense in any jurisdiction and, if so, a list of such convictions with the date and prosecuting jurisdiction.

SECTION 5-5-4 APPLICATION FEE

Each application for a license to do business as a pawnbroker within the City from an applicant who, at the time of application, does not hold a valid license to do business as a pawnbroker within the City shall be accompanied by an applicant fee of two hundred fifty dollars (\$250.00). This application fee shall be in addition to all other fees set forth in this Article and shall not be refunded in the event that the application for a license to do business as a pawnbroker within the City is denied.

SECTION 5-5-5 BOND

No license to do business as a pawnbroker within the City shall be issued unless or until the applicant therefore shall file with the City a license and permit bond in the penal sum of one thousand dollars (\$1,000.00), approved by the City Attorney, with the City as obligee, conditioned for the faithful and due performances of the provisions of this Title and the laws of the State of Illinois concerning the operation of the licensed business and the payment of all fines and penalties by reason of the violation thereof.

SECTION 5-5-6 LICENSE FEE

No license to do business as a pawnbroker within the City shall be issued unless or until the applicant therefore shall pay to the City Clerk a license fee of one hundred dollars (\$100.00).

SECTION 5-5-7 ISSUANCE OF LICENSE

The Mayor shall issue all applications for licenses to do business as a pawnbroker within the City according to the terms of the provisions of this Title.

SECTION 5-5-8 DURATION OF LICENSE

All licenses to do business, as a pawnbroker within the City granted under this Title shall expire one (1) year from the date of issuance.

SECTION 5-5-9 TRANSFERABILITY OF LICENSE

No license to do business, as a pawnbroker within the City granted under this Title shall be transferable.

SECTION 5-5-10 POSSESSION AND DISPLAY OF LICENSE REQUIRED

Any pawnbroker licensed under this Title shall keep said license in his possession at all times while doing business as a pawnbroker within the City and shall cause his license to be framed and hung in plain view in a conspicuous place on the licensed premises.

SECTION 5-5-11 SIGNED MEMORANDUM, CONTRACT, OR NOTE

Every pawnbroker licensed under this Title shall, at the time of making any advancement or loan, deliver to the person pawning or pledging any tangible personal property, a memorandum, contract, or note signed by him containing an accurate account and description, in the English language, of all goods, articles, or other things pawned or pledged, the amount of money, value of things loaned thereon, the time and date of pledging the same, the rate of interest to be paid on the loan, the name and residence of the person making

the pawn or pledge, and the amount of any fees. No charge shall be made or received by any pawnbroker licensed under this Title for any such memorandum, contract, or note.

SECTION 5-5-12 RECORDS REQUIRED

Every pawnbroker licensed under this Title shall keep a standard record book that has been approved by the Peoria County Sheriff's Department, in which shall be written in ink, at the time of each and every loan or taking of a pledge, an accurate account and description, in the English language, of all the goods, articles and other things pawned or pledged, the amount of money, value or thing loaned thereon, the time and date of pledging the same, the rate of interest to be paid on such loan, and the name and residence of the person making such pawn or pledge. Such entry shall include the serial number or identification number of items received which are required to bear such number. Every pawnbroker licensed under this Title shall also record in his book an accurate description, in the English language, of all goods, articles and other things purchased or received for the purpose of resale or loan collateral by the pawnbroker from any source, not in the course of a pledge or loan, the time and date of such purchase or receipt, and the name and address of the person or business which sold or delivered such goods, articles, or other things to the pawnbroker. No entry in such book shall be erased, mutilated, or changed. Every pawnbroker licensed under this Title shall preserve the records required by this Section for one (1) year from the date of the pledge or purchase or until the item is sold, whichever occurs later.

SECTION 5-5-13 IDENTIFICATION REQUIRED

Every pawnbroker licensed under this Title shall require two (2) forms of identification to be shown him by each person pledging or pawning any goods, articles, or things to the pawnbroker. One (1) of the two (2) forms of identification must include his or her residence address. These forms of identification shall include, but not be limited to, any of the following:

- Driver's license, Social Security card, utility bill, employee or student identification card, credit card, or a civic, union, or professional association membership card.

A photocopy of the forms of identification shown shall be made and kept for one (1) year by every pawnbroker licensed under this Title.

SECTION 5-5-14 INSPECTION

This said book, as well as every article or other thing of value so pawned or pledged, shall at all times be open to the inspection of the Mayor, his authorized agent, or any law enforcement officer.

SECTION 5-5-15 DAILY REPORT

It shall be the duty of every pawnbroker licensed under this Title to make out and deliver to the Peoria County Sheriff's Department, on each day before the hours of twelve o'clock noon (12:00 p.m.), a legible and exact copy from the standard record book, as required in Section Nine of this Title, that lists all tangible personal property and other valuable things received on deposit or purchased during the preceding day, together with the exact time and date when received or purchased, and a description of the person or person by whom left in pledge, or from whom the same were purchased.

SECTION 5-5-16 PROPERTY FROM MINORS

No pawnbroker licensed under this Title shall take or receive any pawn or pledge for any advancement or loan any tangible personal property of any kind from any minor which is under eighteen (18) years of age, or the ownership of which is in, or which is claimed by, any such minor, or which may be in the possession or under the control of any such minor.

SECTION 5-5-17 PROPERTY FROM INTOXICATED PERSON OR THIEF; RETURN OF STOLEN PROPERTY

No pawnbroker licensed under this Title shall purchase or take any article in pawn or pledge from any person appearing to be intoxicated, nor from any person known to have been convicted of theft. A law enforcement officer may provide such criminal conviction information to a pawnbroker. When any person is found to be the owner of stolen tangible personal property which has been pawned, such tangible personal property shall be returned to the owner thereof without the payment of the money advanced by the pawnbroker thereon or any costs or charges of any kind which the pawnbroker may have placed upon the same.

SECTION 5-5-18 SALE OF PROPERTY

No tangible personal property received on deposit or pledge, or purchased by any such pawnbroker, shall be sold or permitted to be redeemed or removed from the place of business of such pawnbroker for the space of twenty-four (24) hours after the delivery of the copy and statement required by Section 5-5-12 of this Title to be delivered to the Peoria County Sheriff's Department; and no tangible personal property pawned or pledged shall be sold or disposed of by any such pawnbroker within one (1) year from the time when the pawnor or pledger shall make default in the payment of interest on the money so advanced by such pawnbroker, unless by the written consent of such pawnor or pledger.

SECTION 5-5-19 EMPLOYMENT OF MINOR PROHIBITED

No pawnbroker licensed under this Title shall employ any person less than eighteen (18) years of age to take or receive pledges or pawns.

SECTION 5-5-20 HOURS OF BUSINESS

No pawnbroker licensed under this Title shall transact any business with any person between the hours of nine o'clock (9:00) p.m. and seven o'clock (7:00) a.m.

SECTION 5-5-21 WEAPONS

No pawnbroker licensed under this Title shall take or receive as a pawn or pledge for any advance or any loan blackjack, Bowie knife, derringer, dirk, pistol, revolver, sawed-off shotgun, or other deadly weapon of like character, capable of being secreted upon the person and no pawnbroker licensed under this Title shall display in his window or store any such weapons for sale.

SECTION 5-5-22 PENALTY

Any pawnbroker required to be licensed under this Title who shall violate any of the provisions of this Title shall, upon conviction thereof, be subject to a penalty of not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00) for each and every offense.

SECTION 5-5-23 REVOCATION OF LICENSE

The license of any pawnbroker licensed under this Title who shall violate any of the provisions of this Title shall, upon conviction thereof, in addition to any other penalties provided for in this Title be revoked.

TITLE 5 BUSINESS REGULATIONS

CHAPTER 6 ITINERANT MERCHANTS

5-6-1 Definitions

5-6-2 Prohibition

5-6-3 Penalty

SECTION 5-6-1 DEFINITIONS

Itinerant Merchant: shall mean any person or entity engaging temporarily in the retail sale of collectibles or consumer goods, wares or merchandise within the City who for the purpose of conducting such business, rents, uses or leases any room, building, hotel, roominghouse, structure or lot of any kind, regardless of whether such goods, wares or merchandise are peddled from house to house, place to place, or sold from the room, building, hotel, roominghouse, structure or lot.

The term shall not include the following persons:

- A. Persons, who without receiving any compensation for their services, solicit contributions or sell goods, wares or merchandise for civic, patriotic, fraternal, educational, religious or benevolent organizations.
- B. Persons who sell goods, wares and merchandise on City-owned public grounds as part of an event which has been approved by the City Administrator.
- C. Persons who sell at events which are sponsored by civic, patriotic, fraternal educational, governmental, religious or benevolent organizations goods, wares or merchandise which they have made themselves such as handicrafts and home-sewn items.

To the extent allowed by state and federal law, this Section shall not be considered violated by the use of a property by an itinerant merchant for the sale of consumer fireworks, as defined by state law, where the property so used was annexed to the City of West Peoria within the six (6) months preceding the enactment of this Title or hereafter annexed, if the said annexed property has been used by an itinerant merchant for the sale of consumer fireworks, as defined by state law, at least once annually for each of the last five years.

(Ord. 2010-25)

SECTION 5-6-2 PROHIBITION

It shall be unlawful for any Itinerant Merchant to operate or do business in the City of West Peoria.

SECTION 5-6-3 PENALTY

Any person found guilty of the violation of this Chapter shall be punished by a fine not to exceed five hundred dollars (\$500.00), with each day the violation continues to be considered a separate offense.

(Ord 206-15)

TITLE 5 BUSINESS REGULATIONS

CHAPTER 7 CABLE/VIDEO SERVICE PROVIDER FEE

- 5-7-1 Definitions
- 5-7-2 Cable/Video Service Provider Fee Imposed
- 5-7-3 PEG Access Support Fee Imposed
- 5-7-4 Applicable Principles
- 5-7-5 No Impact on Other Taxes Due from Holder
- 5-7-6 Audits of Cable/Video Service Provider
- 5-7-7 Late Fees/ Payments

SECTION 5-7-1 DEFINITIONS

Cable service: means that term as defined in 47 U.S.C. § 522(6).

Commission: means the Illinois Commerce Commission.

Gross revenues: means all consideration of any kind or nature, including, without limitation, cash, credits, property, and in-kind contributions received by the holder for the operation of a cable or video system to provide cable service or video service within the holder's cable service or video service area within the City.

A. Gross revenues shall include the following:

1. Recurring charges for cable or video service.
2. Event-based charges for cable service or video service, including, but not limited to, pay-per-view and video-on-demand charges.
3. Rental of set top boxes and other cable service or video service equipment.
4. Service charges related to the provision of cable service or video service, including, but not limited to, activation, installation, and repair charges.
5. Administrative charges related to the provision of cable service or video service, including, but not limited to, service order and service termination charges.
6. Late payment fees or charges, insufficient funds check charges, and other charges assessed to recover the costs of collecting delinquent payments.
7. A *pro rata* portion of all revenue derived by the holder or its affiliates pursuant to compensation arrangements for advertising or for promotion or exhibition of any products or services derived from the operation of the holder's network to provide cable service or video service within the City. The allocation shall be based on the number of subscribers in the City divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement.
8. Compensation received by the holder that is derived from the operation of the holder's network to provide cable service or video service with respect to commissions that are received by the holder as compensation for promotion or exhibition of any products or services on the holder's network, such as a "home shopping" or a similar channel, subject to subsection (I).
9. In the case of a cable service or video service that is bundled or integrated functionally with other services, capabilities, or applications, the portion of the holder's revenue attributable to the other services, capabilities, or applications shall be included in the gross revenue unless the holder can reasonably identify the division or exclusion of the revenue from its books and records that are kept in the regular course of business.
10. The service provider fee permitted by 220 ILCS 5/21-801(b).

B. Gross revenues do not include any of the following:

1. Revenues not actually received, even if billed, such as bad debt, subject to 220 ILCS 5/21-801(c)(1)(vi).
 2. Refunds, discounts, or other price adjustments that reduce the amount of gross revenues received by the holder of the State-issued authorization to the extent the refund, rebate, credit, or discount is attributable to cable service or video service.
 3. Regardless of whether the services are bundled, packaged, or functionally integrated with cable service or video service, any revenues received from services not classified as cable service or video service, including, without limitation, revenue received from telecommunication services, information services, or the provision of directory or Internet advertising, including yellow pages, white pages, banner advertisement, and electronic publishing or any other revenues attributed by the holder to noncable service or nonvideo service in accordance with the holder's books and records and records kept in the regular course of business and any applicable laws, rules, regulations, standards, or orders.
 4. The sale of cable services or video services for resale in which the purchaser is required to collect the service provider fee from the purchaser's subscribers to the extent the purchaser certifies in writing that it will resell the service within the City and pay the fee permitted by 220 ILCS 5/21-801(b) with respect to the service.
 5. Any tax or fee of general applicability imposed upon the subscribers or the transaction by a city, state, federal, or any other governmental entity and collected by the holder of the State-issued authorization and required to be remitted to the taxing entity, including sales and use taxes.
 6. Security deposits collected from subscribers.
 7. Amounts paid by subscribers to "home shopping" or similar vendors for merchandise sold through any home shopping channel offered as part of the cable service or video service.
- C. Revenue of an affiliate of a holder shall be included in the calculation of gross revenues to the extent the treatment of the revenue as revenue of the affiliate rather than the holder has the effect of evading the payment of the fee permitted by 220 ILCS 5/21-801(b) which would otherwise be paid by the cable service or video service.

Holder: means a person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/21-401.

PEG: means public, education and governmental.

PEG access support fee: means the amount paid under this Article [Chapter] and 220 ILCS 5/21-801(d) by the holder to the City for the service areas within its territorial jurisdiction.

Service: means the provision of "cable service" or "video service" to subscribers and the interaction of subscribers with the person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/21-401.

Service provider fee: means the amount paid under this Article [Chapter] and 220 ILCS 5/21-801 by the holder to a City for the service areas within its territorial jurisdiction.

Video service: means video programming and subscriber interaction, if any, that is required for the selection or use of such video programming services, and which is provided through wireline facilities located at least in part in the public right-of-way without regard to delivery technology, including Internet protocol technology. This definition does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. § 332(d) or any video programming provided solely as part of, and via, service that enables users to access content, information, electronic mail, or other services offered over the public Internet.

SECTION 5-7-2

CABLE/VIDEO SERVICE PROVIDER FEE IMPOSED

- A. Fee Imposed. A fee is hereby imposed on any holder providing cable service or video service in the City.
- B. Amount of Fee. The amount of the fee imposed hereby shall be five percent (5%) of the holder's gross revenues.
- C. Notice to the City. The holder shall notify the City at least ten (10) days prior to the date on which the holder begins to offer cable service or video service in the City.
- D. Holder's Liability. The holder shall be liable for, and pay, the service provider fee to the City. The holder's liability for the fee shall commence on the first day of the calendar month following thirty (30) days after receipt of the ordinance adopting this Article [Chapter] by the holder. The ordinance adopting this Article [Chapter] shall be sent by mail, postage prepaid, to the address listed on the holder's application notice sent pursuant to 220 ILCS 5/21-401(b)(6) to the City.
- E. Payment Date. The payment of the service provider fee shall be due on a quarterly basis, forty-five (45) days after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.
- F. Exemption. The fee hereby imposed does not apply to existing cable service or video service providers that have an existing franchise agreement with the City in which a fee is paid.
- G. Credit for Other Payments. An incumbent cable operator that elects to terminate an existing agreement pursuant to 220 ILCS 5/21-301(c) with credit for prepaid franchise fees under that agreement may deduct the amount of such credit from the fees that operator owes under the foregoing sections.

SECTION 5-7-3

PEG ACCESS SUPPORT FEE IMPOSED

- A. PEG Access Support Fee Imposed. A PEG access support fee is hereby imposed on any holder providing cable service or video service in the City in addition to the fee imposed pursuant to the foregoing sections.
- B. Amount of Fee. The amount of the PEG access support fee imposed hereby shall be one percent (1%) of the holder's gross revenues or, if greater, the percentage of gross revenues that incumbent cable operators pay to the City or its designee for PEG access support in the City.
- C. Payment. The holder shall pay the PEG access support fee to the City or to the entity designated by the City to manage PEG access. The holder's liability for the PEG access support fee shall commence on the date set forth in the foregoing sections.
- D. Payment Due. The payment of the PEG access support fee shall be due on a quarterly basis, forty-five (45) days after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.
- E. Credit for Other Payments. An incumbent cable operator that elects to terminate an existing agreement pursuant to 220 ILCS 5/21-301(c) shall pay, at the time they would have been due, all monetary payments for PEG access that would have been due during the remaining term of the agreement had it not been terminated pursuant to that Section. All payments made by an incumbent cable operator pursuant to the previous sentence may be credited against the fees that that operator owes under the foregoing sections.

SECTION 5-7-4

APPLICABLE PRINCIPLES

All determinations and calculations under this Article [Chapter] shall be made pursuant to generally accepted accounting principles.

SECTION 5-7-5 NO IMPACT ON OTHER TAXES DUE FROM HOLDER

Nothing contained in this Article [Chapter] shall be construed to exempt a holder from any tax that is, or may later be, imposed by the City, including any tax that is or may later be required to be paid by or through the holder with respect to cable service or video service. A State-issued authorization shall not affect any requirement of the holder with respect to payment of the City's simplified municipal telecommunications tax or any other tax as it applies to any telephone service provided by the holder. A State-issued authorization shall not affect any requirement of the holder with respect to payment of the local unit of government's 911 or E911 fees, taxes or charges.

SECTION 5-7-6 AUDITS OF CABLE/VIDEO SERVICE PROVIDER

- A. Audit Requirement. The City will notify the holder of the requirements it imposes on other cable service or video service providers to submit to an audit of its books and records. The holder shall comply with the same requirements the City imposes on other cable service or video service providers in its jurisdiction to audit the holder's books and records and to recompute any amounts determined to be payable under the requirements of the City. If all local franchises between the City and cable operator terminate, the audit requirements shall be those adopted by the City pursuant to the Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 *et seq.* No acceptance of amounts remitted should be construed as an accord that the amounts are correct.
- B. Additional Payments. Any additional amount due after an audit shall be paid within thirty (30) days after the municipality's submission of an invoice for the sum.

SECTION 5-7-7 LATE FEES/ PAYMENTS

All fees due, and payments which are past due, shall be governed by ordinances adopted by this municipality pursuant to the Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 *et seq.*
(Ord. 2007-16)

TITLE 5 BUSINESS REGULATIONS

CHAPTER 8 GARAGE SALES

- 5-7-1 Definitions
- 5-7-2 Hours of Operation
- 5-7-3 Provisions
- 5-7-4 Advertising
- 5-7-5 Penalty

SECTION 5-7-1 DEFINITIONS

Garage Sales: shall mean and include all sales entitled “garage sale,” “lawn sale,” “attic sale,” “rummage sale,” “flea market sale,” or any similar casual sale of tangible personal property, not associated with a commercial business properly licensed to do business in the City within an area properly zoned for such commercial business, which is advertised by any means whereby the public at large is or can be made aware of the garage sale.

Goods: are meant to include any goods, warehouse merchandise or other property capable of being the object of a sale regulated hereunder.

Person: shall mean and include individuals, partnerships, voluntary associations, and corporations.

SECTION 5-7-2 HOURS OF OPERATION

Garage sales shall not be conducted more than one (1) time or for more than three (3) consecutive days each calendar quarter. In no event shall a garage sale be conducted either before 7:00 a.m. or after 7:00 p.m. on any one (1) day of sale. Residents are advised that all public works projects are almost impossible to reschedule and will proceed as planned, regardless of garage sales. It is recommended that residents check with City Hall about planned public works before scheduling a garage sale.

SECTION 5-7-3 PROVISIONS

The provisions of this Section shall not apply to or affect the following persons or sales:

- A. Persons selling goods pursuant to an order or process of a court of competent jurisdiction.
- B. Any person selling or advertising for sale an item or items of personal property which are specifically named or described in the advertisement.

SECTION 5-7-4 ADVERTISING

All garage sale advertising shall have the date, time and address of any such sale included thereon. All signs advertising any garage sale shall removed within twenty-four (24) hours after the conclusion of the sale.

SECTION 5-7-5 PENALTY

Any person, firm or corporation violating any of the provisions or terms of this Section or owing or occupying real property on which a violation occurs shall be guilty and be subjected to a fine not to exceed the sum of Five Hundred Dollars (\$500.00) for each offense; and each and every day such violation is continued shall be deemed to constitute a separate offense.

TITLE 5 BUSINESS REGULATIONS

CHAPTER 9 AUTO RACING

- 5-9-1 Definitions
- 5-9-2 Enforcing Officer
- 5-9-3 Permit
- 5-9-4 General Conditions

SECTION 5-9-1 DEFINITIONS

The following words, terms and phrases, when used in this Article shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Holiday: A legal holiday as designated by the Illinois State Legislature.

Holiday weekend: A weekend with a legal holiday immediately preceding or occurring on the following day.

Motor racing facility: Any facility or course upon which is conducted motor racing activities or events.

Motor vehicle: Every vehicle which is self-propelled and any combination of vehicles which are propelled or drawn by a vehicle which is self-propelled.

Muffler: A device for abating the sounds of escaping gases of an internal-combustion engine. A muffler may be one (1) of the following types:

- **Annular swirl flow (auger-type) mufflers:** The exhaust gases in the annular swirl flow muffler follow a circular path down the length of the muffler. The inner design is like an auger.
- **Perforated straight core mufflers with sound-absorbing medium:** In this type muffler, the central tube shall be perforated and shall be fully surrounded from beginning to end with an absorbing medium (e.g. fiberglass, steel wool or similar material).
- **Reverse flow (baffle) mufflers:** The reverse flow devices incorporate a multitube and baffled design. The exhaust gases do not flow straight through these devices, but take a multipath, back-and-forth route through the device.
- **Stacked 360° diffuser discs mufflers:** This type of muffler works by causing the exhaust gases to bend ninety (90) degrees and then flow through the stacked three hundred sixty (360) degrees diffuser discs.
- **Properly installed muffler:** A properly installed muffler is one which is:
 - Correctly installed per the manufacturer's instructions; and;
 - Fully functional; and
 - Has no leaks or holes in the walls of the exhaust tubing or muffler body; and
 - Has no defect or modifications to reduce its sound reduction capabilities.

Racing event: Any time, speed, pulling or distance competition using motor vehicles.

Racing vehicle: Every self-propelled device, in, upon or by which any person may be transported, and which is participating in a motor racing activity or event at a motor racing facility.

Top fuel-burning drag vehicles: Drag vehicles operating on more than fifty (50) percent alcohol fuel, or on nitromethane, and are commonly known as "funny cars" and "top fuel cars."

Turbocharger: An exhaust gas-driven supercharger. Turbochargers meet the requirements for a well-maintained muffler system. However, superchargers mechanically driven by the engine are not defined as a well-maintained muffler system.

Vehicle: Every device in, upon, or by which any person or property is or may be transported, including but not limited to go-karts, motorcycles and snowmobiles.

Weekend: The period of time starting at 12:00 p.m. Friday and continuing until 5:00 p.m. on Sunday.

Well-maintained muffler: A device or combination of devices free of defects or modifications that reduce its sound reduction capabilities, which effectively decreases the sound energy of internal-combustion engine exhaust without a muffler by a minimum of five (5) dba at trackside.

SECTION 5-8-2 ENFORCING OFFICER

This Article shall be administered and enforced by the zoning enforcing officer appointed by the County Board, who is hereby designated as the enforcing officer, and who shall make or cause to be made, periodic inspections of all authorized permits issued in accordance with this article to insure compliance with the provisions of the same; he shall make or cause to be made, investigations of violations of this Chapter and shall cause any violations to be corrected.

(Ord. of 5-12-81, § IV)

SECTION 5-8-3 PERMIT

- A. Before commencing the operation of any race or racing event as defined above in the County, any person operating such race, except those excluded in the Illinois Compiled Statutes, 1992, Chapter 55, Act 5, Sections 5-9001 and 5-9002, as amended, shall obtain a written permit from the County Board. Each application for a permit shall specify the day or days for which the permit is effective. The applicant shall disclose the name and address of all owners and operators of the motor racing facility on the permit application. The County Board shall have the authority to establish the form for the permit application and all questions shall be answered by the applicant. The zoning administrator shall be the designated permit officer and all applications for a permit shall be made in the Zoning Department.
- B. The fee shall be one hundred dollars (\$100.00) for all races and events held by a person, other than a County fair association, state fair, or other not-for-profit association or corporation, on a single day. No permit shall be issued unless the fee is fully paid in advance of issuance.
- C. Any racing organization or person who sponsors more than ten (10) racing events on different days within one (1) calendar year, may obtain an annual racing permit by the payment of the sum of one thousand dollars (\$1,000.00) for the entire period. This shall be payable at the rate of five hundred dollars (\$500.00) at the time of the issuance of the permit and five hundred dollars (\$500.00) within sixty (60) days thereafter. The annual racing permit shall expire December 31 of each year.
- D. The County Board shall pay one-half (1/2) of each fee into the County Treasury and shall transfer the remainder to the road and bridge fund of the township or road district wherein the race or event takes place. If the race or event for which the permit is issued is rained out or postponed for other good cause shown, the permit shall be valid for use within the next eight (8) days of the date specified in the permit.

(Ord. of 5-12-81, § II(a), (b); Res. of 3-9-82, §§ 8, 9; Amend. of 4-13-93, § 2)

SECTION 5-8-4 GENERAL CONDITIONS

- A. No racing event shall start after 10:15 p.m. and all racing events shall end by 11:00 p.m. on the following days:
 - 1. Between June 1 and August 31;
 - 2. On holidays and holiday weekends; and

3. On weekends from September 1 to May 31.

All other days of the year, racing events shall end by 10:00 p.m.

- B. The permit holder is bound to comply with all other applicable County ordinances; Chapters 3, 10 and 24 of this Code; and the applicable laws of the State and the United States.
- C. Every racing vehicle entered in any racing event, except top fuel-burning drag vehicles and tractor and truck pulls, shall be equipped with a properly installed and well-maintained muffler meeting or exceeding the following standards as appropriate:

ENGINE SIZE	TYPE			
Muffler Type	Larger than 1600 cc	1600 cc or less	4-cycle motorcycle	2 cycle motorcycle
Annular swirl flow	16" in length	10" in length		
Perforated straight core with sound-absorbing medium (not installed on a rotary engine)	20" inner core length	12" inner core length	6" inner core length	8" inner core length
Reverse flow (baffle)	Meeting the 5 dba noise reduction standard of a well-maintained muffler			
Stacked 360° diffuser disks				
Turbocharger				
Go-kart muffler	As defined by the international Karting Federation as specified in Motor Race Vehicle and Facility Sound Measurement and Procedure Manual NPC-35 which is hereby adopted by reference			
Original equipment manufacturer motorcycle muffler	When installed on a motorcycle model for which such muffler is designated by the manufacturer			
Any other device	Which the County zoning enforcing officer determines qualified as a well-maintained muffler			