

Chapter 22

LICENSES*

Article I. In General

Sec. 22-1. Licensees required to pay local taxes, assessments and claims.
Secs. 22-2--22-30. Reserved.

Article II. Alcoholic Beverages and Nonalcohol Events

Division 1. Generally

Sec. 22-31. State statutes adopted.
Sec. 22-32. Definitions.
Sec. 22-33. Violations; penalties.
Secs. 22-34--22-50. Reserved.

Division 2. Fermented Malt Beverage and Intoxicating Liquor Licenses

Sec. 22-51. Required.
Sec. 22-52. Classes.
Sec. 22-53. Fees.
Sec. 22-54. Applications.
Sec. 22-55. Qualifications of applicants and premises.
Sec. 22-56. Investigations.
Sec. 22-57. Application approval.
Sec. 22-58. Granting; denial; reconsideration.
Sec. 22-59. Transferability; successor agents.
Sec. 22-60. Numbering; required information.
Sec. 22-61. Posting; defacement or destruction.
Sec. 22-62. Conditions.
Sec. 22-63. Closing hours.
Sec. 22-64. Temporary fermented malt beverage or wine license restrictions.
Sec. 22-65. Revocation, suspension or nonrenewal.
Sec. 22-66. Nonalcohol events for underage persons on licensed premises.
Secs. 22-67--22-90. Reserved.

Division 3. Operator's License

Sec. 22-91. Required.
Sec. 22-92. Application procedure.
Sec. 22-93. Validity; expiration.
Sec. 22-94. Fees; provisional license.
Sec. 22-95. Issuance or denial.

*Cross references: B-1 businesses/commercial district, § 58-231 et seq.; I-1 industrial district, § 58-251 et seq.; G-1 institutional district, § 58-271 et seq.

SPRING VALLEY CODE

Sec. 22-96. Training course.
Sec. 22-97. Display.
Sec. 22-98. Violation; revocation.
Secs. 22-99--22-130. Reserved.

Article III. Cigarettes

Sec. 22-131. License.
Secs. 22-132--22-160. Reserved.

Article IV. Direct Sellers

Sec. 22-161. Definitions.
Sec. 22-162. Registration required.
Sec. 22-163. Exemptions.
Sec. 22-164. Registration form; fee; appointment of village administrator as agent to accept service of process.
Sec. 22-165. Investigations.
Sec. 22-166. Appeals.
Sec. 22-167. Regulations.
Sec. 22-168. Records.
Sec. 22-169. Registration revocation.
Secs. 22-170--22-200. Reserved.

Article V. Mobile Homes

Sec. 22-201. Monthly parking fee imposed; limitations on parking.
Secs. 22-202--22-230. Reserved.

Article VI. Massage Establishments

Sec. 22-231. Definitions.
Sec. 22-232. License required.
Sec. 22-233. Application for massage establishment license; fee.
Sec. 22-234. Additional information required for license to operate a massage establishment.
Sec. 22-235. Issuance of license; duration; renewal.
Sec. 22-236. Construction and maintenance requirements.
Sec. 22-237. Masseur and masseuse permits.
Sec. 22-238. Masseur and masseuse permit applications.
Sec. 22-239. Issuance of masseur and masseuse permits; cancellation; duration; display.
Sec. 22-240. Hours of operation.
Sec. 22-241. Interference with enforcement; violations; penalties.
Secs. 22-242--22-270. Reserved.

LICENSES

Article VII. Fireworks

- Sec. 22-271. Definitions.
- Sec. 22-272. Sale.
- Sec. 22-273. Use.
- Sec. 22-274. Storage and handling.
- Sec. 22-275. Parental liability.
- Secs. 22-276--22-300. Reserved.

Article VIII. Street Use Permits

- Sec. 22-301. Purpose.
- Sec. 22-302. Application.
- Sec. 22-303. Representative at meeting.
- Sec. 22-304. Review of application.
- Sec. 22-305. Mandatory denial.
- Sec. 22-306. Fee.
- Sec. 22-307. Petition.
- Sec. 22-308. Insurance; performance bond.
- Sec. 22-309. Reasons for termination and revocation.
- Secs. 22-310--22-340. Reserved.

Article IX. Flea Markets and Garage Sales

- Sec. 22-341. Flea markets.
- Sec. 22-342. Garage sales.
- Secs. 22-343--22-370. Reserved.

Article X. Amusement Arcades

- Sec. 22-371. Definitions.
- Sec. 22-372. General requirements.
- Sec. 22-373. License.
- Sec. 22-374. Hours of operation.
- Sec. 22-375. Revocation of license.
- Secs. 22-376--22-410. Reserved.

Article XI. Nonmetallic Mining

- Sec. 22-411. Definitions.
- Sec. 22-412. Applicability.
- Sec. 22-413. Exempt activities.
- Sec. 22-414. Permit; reclamation plan; applications; performance bond; fences; inspections; prohibitions; enforcement officer.
- Sec. 22-415. Permit revocation, cancellation, rescission or termination.
- Sec. 22-416. Blasting and/or rock crushing.

ARTICLE I. IN GENERAL**Sec. 22-1. Licensees required to pay local taxes, assessments and claims.**

(a) *Refusal to issue or renew licenses.* The village shall not issue or renew any license to transact any business within the village for any:

- (1) Purposes for which taxes, assessments or other claims of the village are delinquent and unpaid.
- (2) Person who is delinquent in the payment of any:
 - a. Taxes, assessments or other claims owed to the village; or
 - b. Forfeiture resulting from a violation of any ordinance.

(b) *Exception.* This section shall apply to licenses issued pursuant to the provisions of this chapter, except article V of this chapter.

(c) *Applicability.* An application for renewal of a license subject to this chapter shall be denied pursuant to the provisions of subsection (a) of this section only following notice and an opportunity for a hearing as provided by subsection (d) of this section.

(d) *Hearings.* Prior to any denial of an application for renewal of a license, including denials pursuant to subsection (a) of this section, the applicant shall be given notice and an opportunity for a hearing as follows:

- (1) With respect to licenses renewable under article II of this chapter, notice and an opportunity for a hearing shall be as provided by Wis. Stats. § 125.12, as amended from time to time.
- (2) With respect to licenses other than as described in subsection (a) of this section, the village board or its assignee shall notify the applicant in writing of the village's intention not to renew the license and shall provide the applicant with an opportunity for a hearing. The notice shall state the reasons for the intended action and shall establish a date on which the applicant shall appear before the village board, which shall not be less than three days, nor more than ten days after the date of the notice. If the applicant shall fail to appear before the village board on the date indicated on the notice, the village board shall deny the application for renewal. If the applicant appears before the village board on the date indicated on the notice and denies that the reason for nonrenewal exist, the village board shall conduct a hearing with respect to the matter. At the hearing, both the village and the applicant may produce witnesses, cross examine witnesses and be represented by counsel. Upon request, the applicant shall be provided with a written transcript of the hearing, at the applicant's expense. If the village board determines the applicant shall not be entitled to renew pursuant to subsection (a) of this section, the application for renewal shall be denied.

(e) *Appeals.* Where an individual, business or corporation wishes to appeal the village administrator's decision not to issue a license or permit under this section on grounds other than the grounds specified in subsections (a)-(d) of this section, the applicant may file a request in writing with

the village administrator that the matter be referred to the village board. A public hearing shall be scheduled by the village board within 14 calendar days. All parties may be represented by counsel. The village board shall consider all relevant information and shall render a decision which shall be binding. (Code 1988, § 7-12-1)

Secs. 22-2 – 22-30. Reserved.

ARTICLE II. ALCOHOLIC BEVERAGES AND NONALCOHOL EVENTS*

DIVISION 1. GENERALLY

Sec. 22-31. State statutes adopted.

The provisions of Wis. Stats. ch. 125, relating to the sale of intoxicating liquor and fermented malt beverages, except provisions in such chapter relating to the penalties to be imposed, are adopted by reference and made a part of this section as if fully set forth in this section. Any act required to be performed or prohibited by any statute incorporated by reference in this section is required or prohibited by this section. Any future amendments, revisions or modifications of the statutes incorporated in this section are intended to be made a part of this section in order to secure uniform statewide regulation of alcohol beverage control.

(Code 1988, § 7-2-1)

Sec. 22-32. Definitions.

As used in this article, the terms “alcoholic beverages,” “intoxicating liquors,” “principal business,” “legal drinking age,” “premises,” “sell,” “sold,” “sale,” “restaurant,” “club,” “retailer,” “person,” “fermented malt beverages,” “wholesalers,” “retailers,” “operators” and “non intoxicating beverages” shall have the meanings given to them by Wis. Stats. ch. 125.

Cross reference- Definitions generally, § 1-2.

Sec. 22-33. Violations; penalties.

(a) Forfeitures for violations of Wis. Stats. §§ 125-07(1) – (4) and 125-09(2), adopted by reference in section 22-31, shall conform to the forfeiture penalty permitted to be imposed for violations of the comparable statute, including any variations or increases for subsequent offenses.

(b) Any person who shall violate any provisions of this article, except as otherwise provided in subsection (a) of this section, or who shall conduct any activity or make any sale for which a license is required without a license, shall be subject to a forfeiture as provided in section 1-27.

(c) Nothing in this section shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the statute.

(Code 1988, § 7-2-30)

Secs. 22-34 – 22-50. Reserved.

***Cross reference** – Alcoholic beverages, § 30-141 et seq.

DIVISION 2. FERMENTED MALT BEVERAGE AND INTOXICATING LIQUOR LICENSES

Sec. 22-51. Required.

No person shall vend, sell, deal or traffic in, or have in his possession with the intent to vend, sell, deal or traffic in, or, for the purpose of evading any law or ordinance, give away any intoxicating liquor or fermented malt beverage in any quantity, or cause such to be done, without having procured a license as provided in this division, nor without complying with all of the provisions of this article, and all statutes and regulations applicable thereto, except as provided by Wis. Stats. §§ 125.16, 125.27, 125.28 and 125.51.

(Code 1988, § 7-2-3)

Sec. 22-52. Classes.

(a) *Retail “class A” intoxicating liquor license.* A retail “class A” intoxicating liquor license, when issued by the village administrator under the authority of the village board, shall permit its holder to sell, deal and traffic in intoxicating liquors only in original packages or containers and to be consumed off the licensed premises.

(b) *Retail “class B” intoxicating liquor license.* A retail “class B” intoxicating liquor license, when issued by the village administrator under the authority of the village board, shall permit its holder to sell, deal and traffic in intoxicating liquors and to be consumed by the glass only on the licensed premises and in the original package or container in multiples not to exceed four liters at any one time, to be consumed off the premises, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off the premises.

(c) *Class “A” fermented malt beverage retailer’s license.* A class “A” retailer’s fermented malt beverage license when issued by the village administrator under the authority of the village board, entitles the holder of such license to possess, sell or offer for sale fermented malt beverages only for consumption away from the premises where sold and in the original packages, containers or bottles. Such license may be issued after July 1, and shall expire on the following June 30.

(d) *Class “B” fermented malt beverage retailer’s license.*

(1) *Issuance.* A class “B” fermented malt beverage retailer’s license when issued by the village administrator under the authority of the village board, entitles the holder of such license to possess, sell or offer for sale fermented malt beverages either to be consumed upon the premises where sold or away from such premises. The holder of such license may also sell beverages containing less than one-half of a percent of alcohol by volume, without obtaining a special license to sell such beverages. Such license may be issued after July 1, and shall expire on the following June 30.

(2) *Application.* Class “B” licenses may be issued to any person qualified under Wis. Stats. § 125.04(5). Such licenses may not be issued to any person acting as the agent for or in the employ of another, except that such restriction does not apply to a hotel or restaurant which is not part of or located on the premises of any mercantile establishment, or to a bona fide club, society or lodge that has been in existence for at least six months before the date of the application. A class

“B” license for a hotel, restaurant, club, society or lodge may be issued in the name of an officer who shall be personally responsible for compliance with this article. Except as provided in Wis. Stats. § 125.31, class “B” licenses may not be issued to brewers or fermented malt beverage wholesalers. The village board authorizes the village administrator to issue this class of license.

- (e) *Temporary class “B” fermented malt beverage license.*
- (1) *Issuance.* As provided in Wis. Stats. § 125.26(1) and (6), temporary class “B” fermented malt beverage licenses may be issued to bona fide clubs, county or local fair associations or agricultural societies, churches, lodges or societies that have been in existence for at least six months before the date of the application and to posts of veterans’ organizations authorizing the sale of fermented malt beverages at a particular picnic or similar gathering, at a meeting of the post or during a fair conducted by the fair association or agricultural society. A license issued to a county or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of fermented malt beverages from leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of fermented malt beverages from the stands while the fair is being held. Such license is valid for the dates as approved by the village administrator. The village board authorizes the village administrator to issue this class of license.
- (2) *Application.* Application for a temporary class “B” license shall be signed by the president or corresponding officer of the society or association making such application, and shall be filed with by the village administrator, together with the appropriate license fee for each day for which the license is sought. Any person fronting for any group, other than the one applied for, shall, upon conviction, be subject to a forfeiture of \$200.00 and will be ineligible to apply for a temporary class “B” license for a period of one year. The license shall specify the hours and dates of license validity. The application shall be filed a minimum of 15 days prior to the meeting of the village board at which the application will be considered for events of more than three consecutive days. If the application is for a license to be used in a village park, the applicant shall specify the facility for the main point of sale.
- (f) *Temporary class “B” wine license.*
- (1) *Issuance.* Notwithstanding Wis. Stats. § 125.68(3), temporary class “B” wine licenses may be issued to bona fide clubs, county or local fair associations or agricultural societies, churches, lodges or societies that have been in existence for at least six months before the date of the application and to posts of veterans’ organizations authorizing the sale of wine containing not more than six percent alcohol by volume in an original package, container or bottle or by the glass if the wine is dispensed directly from in an original package, container or bottle at a particular picnic or similar gathering, a meeting of the post or during a fair conducted by the fair association or agricultural society. No fee may be charged to a person who, at the same time, applies for a temporary class “B” beer license under Wis. Stats. § 125.26(6) for the same event. A license issued to a county or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of wine containing not more than six percent alcohol by volume from leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of wine containing not more than six percent alcohol by volume from the stands while the fair is

being held.

- (2) *Application.* Application for a temporary class “B” wine license shall be signed by the president or corresponding officer of the society or association making such application, and shall be filed with by the village administrator, together with the appropriate license fee for each day for which the license is sought. Any person fronting for any group, other than the one applied for, shall, upon conviction, be subject to a forfeiture of \$200.00 and will be ineligible to apply for a temporary class “B” wine license for a period of one year. The license shall specify the hours and dates of license validity. The application shall be filed a minimum of 15 days prior to the meeting of the village board at which the application will be considered for events of more than three consecutive days. If the application is for a license to be used in a village park, the applicant shall specify the facility for the main point of sale.

(g) *Wholesaler’s fermented malt beverage license.* A wholesaler’s fermented malt beverage license, when issued by the village administrator under authority of the village board, shall entitle the holder of such license to possess, sell or offer for sale fermented malt beverages only in original packages or containers to dealers, not to be consumed in or about the premises of the wholesaler.

(Code 1988, § 7-2-4)

Sec. 22-53. Fees.

The following classes of licenses which, when issued by the village administrator under authority of the village board, after payment of the license fee and publication costs specified in this division, shall permit the holder to sell, deal or traffic in intoxicating liquors or fermented malt beverages as provided in section 22-52 and Wis. Stats. ch. 125:

- (1) *Class “A” fermented malt beverage retailer’s license.* The annual fee for the class “A” fermented malt beverage retailer’s license shall be as set by the village board from time to time. The fee for such license for less than 12 months shall be prorated according to the number of months, or fraction thereof, for which the license is issued.
- (2) *Class “B” fermented malt beverage retailer’s license.* The annual fee for the class “B” fermented malt beverage retailer’s license shall be as set by the village board from time to time. The license may be issued at any time for six months in any calendar year, for which 50 percent of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which the license is issued. The fee for such license for less than 12 months shall be prorated according to the number of months, or fraction thereof, for which the license is issued. Club licenses shall be issued for an annual fee as set by the village board from time to time.
- (3) *Temporary class “B” fermented malt beverage license.* The fee for the temporary class “B” fermented malt beverage license shall be a sum per event as set by the village board from time to time.
- (4) *Temporary class “B” wine license.* The fee for the temporary class “B” wine license shall be a sum per event as set by the village board from time to time; however, there shall be no fee if the temporary wine license is obtained along with a temporary fermented malt beverage license.

- (5) *Fermented malt beverage wholesaler's license.* The annual fee for the fermented malt beverage wholesaler's license shall be as set by the village board from time to time.
 - (6) *"Class A" intoxicating liquor retailer's license.* The annual fee for the "class A" intoxicating liquor retailer's license shall be as set by the village board from time to time.
 - (7) *"Class B" intoxicating liquor retailer's license.* The annual fee for the "class B" intoxicating liquor retailer's license shall be as set by the village board from time to time.
- (Code 1988, § 7-2-5; Res. of 9-2-1992, § 7-2-5)

Sec. 22-54. Applications.

(a) *Contents.* An application for a license to sell or deal in intoxicating liquors or fermented malt beverages shall be made in writing on the form prescribed by the state department of revenue, and shall be sworn to by the applicant as provided by Wis. Stats. §§ 887.01-887.04, and shall be filed with the village administrator not less than 15 days prior to the granting of such license. The premises shall be physically described, and shall include every room and storage space to be covered by the license, including all rooms not separated by a solid wall or joined by connecting entrances.

(b) *Filing and swearing.* The license application shall be filed and sworn to by the applicant if an individual, and by the president and secretary if the applicant is a corporation.

(c) *Publication.* The village administrator shall publish each application for a class "A," class "B," "class A" or "class B" license. There is no publication requirement for temporary class "B" picnic beer licenses under Wis. Stats. § 125.26, or for temporary class "B" picnic wine licenses under Wis. Stats. § 125.51(10). The application shall be published once in the official village newspaper, and the cost of publication shall be paid by the applicant at the time the application is filed, as determined Wis. Stats. § 985.08.

(d) *Amendments.* Whenever anything occurs to change any fact set out in the application of any licensee, such licensee shall file a notice in writing of such change with the issuing authority within ten days after the occurrence thereof.

(e) *Quotas.* Retail intoxicating liquor and fermented malt beverage licenses issued by the village board shall be limited in number to the quota prescribed by law and this division.
(Code 1988, § 7-2-6; Res. of 9-2-1992, § 7-2-6)

Sec. 22-55. Qualifications of applicants and premises.

(a) *Residency.* A retail class "A" or class "B" fermented malt beverage or "class A" or "class B" intoxicating liquor license shall be granted only to persons who are citizens of the United States and who have continuously been residents of the state for at least 90 days prior to the date of the application.

(b) *Requirement for obtaining "class B" intoxicating liquor license.* No retail "class B" intoxicating liquor license shall be issued to any person who does not have, or to whom is not issued, a class "B" retailer's license to sell fermented malt beverages.

(c) *Right to premises.* No applicant will be considered, unless he has the right to possession, by lease or deed, of the premises described in the application for the license period.

(d) *Minimum age requirement.* Licenses related to alcohol beverages shall only be granted to persons who have attained the legal drinking age.

(e) *Corporate restrictions.*

(1) No license or permit may be issued to any corporation, unless the corporation meets the qualifications under Wis. Stats. § 125.04(5)(c), unless the agent of the corporation appointed under Wis. Stats. § 125.04(6) and the officers and directors of the corporation meet the qualifications of Wis. Stats. § 125.04(5)(a, b), and unless the agent of the corporation appointed under Wis. Stats. § 125.04(6) meets the qualifications under Wis. Stats. § 125.04(5)(a, b). The requirement that the corporation meet the qualifications of Wis. Stats. § 125.04(a)1 and (b) does not apply if the corporation has terminated its relationship with all of the individuals whose actions directly contributed to the conviction.

(2) Each corporate applicant shall file with its application for such license a statement by its officers showing the names and addresses of the persons who are stockholders, together with the amount of stock held by such persons. It shall be the duty of each corporate applicant and licensee to file with the village administrator a statement of transfers of stock within 48 hours after such transfer of stock.

(3) Any license issued to a corporation may be revoked in the manner and under the procedure established in Wis. Stats. § 125.12, when more than 50 percent of the stock interest, legal or beneficial, in such corporation is held by any person not eligible for a license under this division or law.

(f) *Sales tax qualification.* Before they may be issued a license, all applicants for retail licenses shall provide proof, as required by Wis. Stats. § 77.61(11), that they are in good standing for sales tax purposes (i.e., hold a seller's permit).

(g) *Separate license required for each place of sale.* A separate license shall be required for each stand, place, room or enclosure, or for each suite of rooms or enclosures which are in a direct connection or communication where intoxicating liquor or fermented malt beverages are kept, sold or offered for sale. No license shall be issued to any person for the purpose of possession, selling or offering for sale any intoxicating liquors or fermented malt beverages in any dwelling, house, flat or residential apartment.

(Code 1988, § 7-2-7; Res. of 9-2-1992, § 7-2-7)

Sec. 22-56. Investigations.

The village administrator shall notify the chief of police, building inspector or fire inspector of each new application, and such officials shall inspect, or cause to be inspected, each application and the premises, together with such other investigation as shall be necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto, including those governing sanitation in restaurants, and whether the applicant is a proper

recipient of a license. Such officials shall furnish to the village administrator in writing, and the village administrator shall forward to the village board, the information derived from such investigation, accompanied by a recommendation as to whether a license should be granted or refused. No license shall be renewed without a reinspection of the premises and a report as originally required.

(Code 1988, § 7-2-8; Res. of 9-2-1992, § 7-2-8)

Sec. 22-57. Application approval.

(a) No license shall be granted for operation on any premises or with any equipment for which taxes, assessments, forfeitures or other financial claims of the village are delinquent and unpaid.

(b) No license shall be issued unless the premises conform to the sanitary, safety and health requirements of the state building code and the regulations of the state and local boards of health which are applicable to restaurants. The premises must be properly lighted and ventilated, equipped with separate sanitary toilet and lavatory facilities, equipped with running water for each sex, and conform to all ordinances.

(c) Consideration for the granting or denial of a license will be based on the:

- (1) Arrest and conviction record of the applicant, subject to the limitations imposed by Wis. Stats. §§ 111.321, 111.322 and 111.335;
- (2) Financial responsibility of the applicant;
- (3) Appropriateness of the location and premises where the licensed business is to be conducted; and
- (4) Applicant's fitness, generally, for the trust to be reposed.

(d) An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony, unless duly pardoned, or if the applicant has habitually been a law offender. For the purpose of this licensing procedure, the term "habitually been a law offender," generally, means an arrest or conviction of at least two offenses which are substantially related to the licensed activity within the five years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the village board, the village board reserves the right to consider the severity and facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the village board, at its discretion, may, based upon an arrest or conviction record of two or more offenses which are substantially related to the licensed activity within the five years immediately preceding, act to suspend such license for a period of one year or more.

(Code 1988, § 7-2-9; Res. of 9-2-1992, § 7-2-9)

Sec. 22-58. Granting; denial; reconsideration.

(a) Opportunity shall be given by the village board to any person to be heard for or against the granting of any license. Upon the approval of the applicant by the village board, the village administrator shall issue a license to the applicant, upon payment of the license fee to the village by the applicant. The full license fee shall be charged for the whole or fraction of any year.

(b) If the village board denies the license, the applicant shall be notified in writing, by registered mail or personal service, of the reasons for the denial. The notice shall also inform the applicant of the opportunity to appear before the village board and to provide evidence as to why the denial should be reversed. In addition, the notice shall also inform the applicant that the reconsideration of the application shall be held in closed session, pursuant to Wis. Stats. § 19.85(1)(b), unless the applicant requests such reconsideration be held in open session and the village board consents to the request. Such written notice shall be mailed or served upon the applicant at least ten days prior to the village board meeting at which the application is to be reconsidered.

(Code 1988, § 7-2-10; Res. of 9-2-1992, § 7-2-10)

Sec. 22-59. Transferability; successor agents.

(a) In accordance with the provisions of Wis. Stats. § 125.04(12), a license shall be transferable from one premises to another if the transfer is first approved by the village board. An application for transfer shall be made on a form furnished by the village administrator. Proceedings for such transfer shall be had in the same form and manner as the original application. The fee for such transfer shall be as set by the village board from time to time. Whenever a license is transferred, the village administrator shall forthwith notify the state department of revenue of such transfer. In the event of a sale of a business or business premises of the licensee, the purchaser of such business or business premises must apply to the village for reissuance of the license and the village, as the licensing authority, shall in no way be bound to reissue the license to such subsequent purchaser.

(b) Whenever the agent of a corporate holder of a license is replaced for any reason, the licensee shall give the village administrator written notice of such replacement; the reason therefore; and the new appointment. Until the next regular meeting or special meeting of the village board, the successor agent shall have the authority to perform the functions and be charged with the duties of the original agent. However, such license shall cease to be in effect upon receipt by the village administrator of notice of disapproval of the successor agent by the state department of revenue or other peace officer of the municipality in which the license was issued. The corporation's license shall not be in force after receipt of such notice or after a regular or special meeting of the village board until the successor agent or another qualified agent is appointed and approved by the village.

(Code 1988, § 7-2-11; Res. of 9-2-1992, § 7-2-11)

Sec. 22-60. Numbering; required information.

All licenses shall be numbered in the order in which they are issued, and shall clearly state the specific premises for which the license is granted, the date of issuance, the fee paid, and the name of the licensee.

(Code 1988, § 7-2-12; Res. of 9-2-1992, § 7-2-12)

Sec. 22-61. Posting; defacement or destruction.

(a) Every person licensed in accordance with the provisions of this division shall immediately post such license and keep the license posted, while in force, in a conspicuous place in the room or place where the alcoholic beverages are drawn or removed for service or sale.

(b) It shall be unlawful for any person to post, or be permitted to post, such license upon premises other than the premises mentioned in the application, or to knowingly deface or destroy such license.

(Code 1988, § 7-2-13; Res. of 9-2-1992, § 7-2-13)

Sec. 22-62. Conditions.

All retail class “A,” class “B,” “class A” and “class B” licenses granted under this division shall be granted subject to the following conditions and all other conditions of this division and all other applicable ordinances and regulations of the village:

- (1) *Consent to entry.* Every applicant procuring a license thereby consents to the:
 - a. Entry of police or other duly authorized representatives of the village, at all reasonable hours, for the purpose of inspection and search;
 - b. Removal from such premises of all things and articles in violation of ordinances or law; and
 - c. Introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.
- (2) *Employment of minors.* No retail “class B” or class “B” licensee shall employ any underage person, as defined in statute, but such requirement shall not apply to hotels and restaurants. Family members may work on the licensed premises, but are not permitted to sell or dispense alcoholic beverages.
- (3) *Disorderly conduct.* Each licensed premises shall, at all times, be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed, at any time, on any licensed premises.
- (4) *Licensed operator required on premises.* There shall, at all times, be upon premises operated under a “class B” or class “B” license the licensee, members of the licensee’s family who have attained the legal drinking age and/or a person who shall have an operator’s license and who shall be responsible for the acts of all persons serving as waiters, or in any other manner serving any fermented malt beverages to customers. No person, other than the licensee, shall serve fermented malt beverages in any place operated under a “class B” or class “B” license, unless he possesses an operator’s license, or there is a person with an operator’s license upon the premises at the time of such service.
- (5) *Sanitation rules and regulations.* The rules and regulations of the state board of health governing sanitation in restaurants shall apply to all “class B” liquor licenses issued under this division, and no “class B” license shall be issued, unless the premises to be licensed conforms to such rules and regulations.
- (6) *Restrictions near schools, churches and hospitals.* No retail class “A,” class “B,” “class A” and “class B” license shall be issued for a premises which has its main entrance less than 300 feet from the main entrance of any established public school, parochial school, hospital or church. Such distance shall be measured by the shortest route along the highway from the closest point of

the main entrance of such school, church or hospital to the main entrance to such premises. This subsection shall not apply to any premises licensed as such on June 30, 1947, not shall it apply to any premises licensed as such prior to the occupation of real property within 300 feet thereof by any school, hospital or church building.

- (7) *Clubs.* No club shall sell or give away any intoxicating liquor, except to bona fide members and guests invited by members.
- (8) *Gambling and games of chance.* Except as authorized by law, no gambling or game of chance of any sort shall be permitted in any form upon any premises licensed under this division or the laws of the state.
- (9) *Extension of credit prohibited; exceptions.* No retail class “A,” class “B,” “class A” and “class B” liquor or fermented malt beverage licensee shall sell, or offer for sale, any alcoholic beverage to any person by extending credit, except hotel credit extended to a resident guest or credit extended by a club to a bona fide member. It shall be unlawful for such licensee or permittee to sell alcoholic beverages to any person on a passbook or store order, or to receive from any person any goods, wares, merchandise or other articles in exchange for alcoholic beverages.
- (10) *Responsibility for violations; institution of proceedings for suspension or revocation of license or permits.* A violation of this division by a duly authorized agent or employee of a licensee or permittee under this division shall constitute a violation by the licensee or permittee. Whenever any licensee or permittee under this division shall violate any portion of this division, proceedings for the suspension or revocation of the license or permit of the holder may be instituted in the manner prescribed in this division.
- (11) *Improper exhibitions.* It shall be unlawful for any person to perform, or for any licensee or manager or agent of the licensee to permit any employee, entertainer or patron to engage in any live act, demonstration, dance or exhibition on the licensed premises which:
 - a. Exposes his genitals, pubic hair, buttocks, perineum, anal region or pubic hair region;
 - b. Expose any device, costume or covering which give the appearance of or stimulates genitals, pubic hair, buttocks, perineum, anal region or pubic hair region;
 - c. Exposes any portion of the female breast at or below the areola; or
 - d. Engages in or simulates sexual intercourse and/or any sexual contact, including the touching of any portion of the female breast or the male and/or female genitals.

(Code 1988, § 7-2-14; Res. of 9-2-1992, § 7-2-14)

Annotation – See *Colonnade Catering Corp. v. United States*, 397 U.S. 72, 90 S. Ct. 774 (1970), and *State v. Erickson*, 101 Wis. 2d 224 (1981), for guidelines for warrantless searches of licensed premises.

Sec. 22-63. Closing hours.

- (1) *Class “B” licenses.*

- a. No premises for which a retail “class B” liquor or class “B” fermented malt beverage license has been issued shall be permitted to remain open for the sale of liquor or fermented malt beverages, or for any other purpose, between the hours of 2:00 a.m. and 6:00 a.m., Monday through Friday, and 2:30 a.m. and 6:00 a.m., Saturday and Sunday. There shall be no closing hours on January 1.
- b. Hotels and restaurants for which the principal business is the furnishing of food or lodging to patrons, bowling alleys, indoor horseshoe-pitching facilities, curling clubs, golf course and golf clubhouses may remain open for the conduct of their regular business, but shall not sell liquor or malt beverages during the closing hours as set forth in subsection (1)a of this section.

- (2) *Carryout hours.* Between 9:00 p.m. and 8:00 a.m., no person may sell, remove or carry out, or permit to be removed or carried out, from any premises having a “class A” or class “A” license, fermented malt beverages in intoxicating liquor in original, unopened packages, containers or bottles for consumption away from the premises.

(Code 1988, § 7-2-15; Res. of 9-2-1992, § 7-2-15)

Sec. 22-64. Temporary fermented malt beverage or wine license restrictions.

It shall be unlawful for any person or organization, on a temporary basis, to sell or offer to sell any alcoholic beverage upon any village-owned or privately owned property within the village, except through the issuance of a temporary class “B” fermented malt beverage license or temporary “class B” wine license, issued by the village board in accordance with statute and set forth in this section. A temporary class “B” fermented malt beverage license or temporary “class B” wine license authorizing the sale and consumption of beer and/or wine on village-owned or privately owned property may be authorized by the village board, provided, the following requirements are met:

- (1) *Compliance with eligibility standards.* The organization shall meet the eligibility requirements of a bona fide club, association, lodge or society as set forth in Wis. Stats. § 125.26(6), and shall fully comply with the requirements of this section.
- (2) *Posting of signs and licenses.* All organizations issued a temporary license shall post, at the main point of sale and at all remote points of sale, in a conspicuous location, a sufficient number of signs stating that no fermented malt beverage shall be served to any underage person without proper identification.
- (3) *Fencing.* All organizations shall install a double fence around the main point of sale to control ingress and egress, and shall continually station a licensed operator or security guard at the entrance for the purpose of checking age identification. There shall be only one point of ingress and egress. The double fence shall be a minimum of four feet high and a minimum of six feet between fences. A single eight-foot chainlink fence may be used to meet the fence requirements.
- (4) *Underage persons.* No underage person, as defined by statutes, shall be allowed to assist in the sale of fermented malt beverages or wine at any point of sale, nor shall any such underage person be allowed to loiter or linger in the area of any point of sale.

- (5) *Stationing of licensed operators.* A licensed operator shall be stationed at all points of sale, at all times.
- (6) *Waiver or modification.* The village board may waive or modify the requirements of this section due to the physical characteristics of the licensed site.
- (7) *Insurance.* The applicant for a temporary fermented malt beverage or wine license may be required to indemnify, defend and hold the village and its employees and agents harmless against all claims, death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. The applicant may be required to furnish a certificate of comprehensive general liability insurance with the village as evidence of the applicant's ability to perform the conditions of the license. The applicant may be required to furnish a performance bond prior to the license being granted.
- (8) *Permitted containers.* Intoxicants will be sold only in cans or foam or plastic cups.
- (9) *Additional requirements.* In addition, requesting organizations shall comply with the following:
 - a. When the event sponsored by the requesting organization is to take place on village park property, the organization shall work closely with the village officials in locating, setting up and identifying the size of the snow fence area, and such information shall be made part of the temporary class "B" permit application.
 - b. When the event sponsored by the requesting organization is to take place on village-owned property other than park property and/or privately owned property, the organization shall work closely with the police department in locating and setting up the fence area. The chief of police shall work closely with the requesting organization in identifying the size and exact location of the fenced-in area, and such information shall be made part of the temporary class "B" permit application. For indoor events, the structure used must have suitable exits and open spaces to accommodate anticipated attendance, and shall contain adequate sanitary facilities to accommodate the size of the group.

(Code 1988, § 7-2-16; Res. of 9-2-1992, § 7-2-16)

Sec. 22-65. Revocation, suspension or nonrenewal.

- (a) *Institution of proceedings.* Whenever the holder of any license under this division violates any portion of this article, proceedings for the revocation of such license may be instituted in the manner and under the procedure established by this section.
- (b) *Abandonment of premises.* Any licensee holding a license to sell alcoholic beverages who abandons such business shall forfeit any right or preference he may have to the holding and renewal of such license. Abandonment shall be sufficient grounds for revocation of any alcoholic beverage license. The closing of the licensed premises for at least six months shall be prima facie evidence of abandonment, unless such period of time is extended by the village board. All persons issued a license to sell alcoholic beverages within the village for which a quota exists limiting the number of such licenses that may be issued by the village shall cause such business described in such license to be

operated on the premises described in the license for at least 150 days during the term of such license, unless such license is issued for a term of less than 180 days, in which event this subsection shall not apply.

(c) *Procedures.* License revocation or suspension procedures shall be prescribed by Wis. Stats. ch. 125.

(d) *Demerit point system.*

(1) *Purpose.* The purpose of this subsection (d) is to administratively interpret the portions of this division and chapter 30, article V, of this Code relating to establishing an alcoholic beverage demerit point system to assist in determining which license holders should be subject to suspension or revocation procedures.

(2) *Scale.* The scale of demerit points is listed in this subsection according to the type of alcoholic beverage violation. The demerit point system is used to identify habitually troublesome license holders who have repeatedly violated statutes and ordinances for the purpose of recommending suspension or revocation of the alcoholic beverage licenses.

<i>Type of Violation</i>	<i>Point Value</i>
Sale of alcoholic beverages without license or permit; sale of controlled substances on licensed premises	100
Sale of alcoholic beverages to underage person	50
Sale of alcoholic beverages to intoxicated person	50
Underage person on premises	50
Intoxicated bartender; disorderly conduct on premises	50
After-hours consumption	50
Refusal to allow police to search premises or refusal to cooperate with lawful police investigation	50
Licensee, agent or operator not on premises at all times	25
Persons on premises after closing hours	25
Violation of carry-out hours	25
Licensee permitting person to leave premises with open alcoholic beverage	25
All other violations of this division	25

(3) *Basis for determination.* In determining the accumulated demerit points against a licensee within a 12-month period, the village shall use the date each violation was committed as the basis for determination.

(4) *Suspension or revocation of license.*

a. For the purpose of a revocation or suspension hearing, the finance committee of the village board shall call before it all licensees who have accumulated 100 points in a 12-month period as a result of court-imposed convictions or who have had referred to it reports from the village attorney which, if believed, would result in 100 demerit points in

12-month period.

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

(Code 1988, § 7-2-17; Res. of 9-2-1992, § 7-2-17)

Sec. 22-66. Nonalcohol events for underage persons on licensed premises.

The presence of underage persons on a licensed premises, as provided under Wis. Stats. § 125.07(3)(a)10, shall be subject to the following:

- (1) The licensee or agent of a corporate licensee shall notify the police department at least 48 hours in advance of the date of any event at which underage persons will be present on the licensed premises. Each such nonalcohol event notice shall specify the dates on which the event is to occur and the times of commencement. All notices shall be filed with the police department during normal working hours (8:00 a.m. to 5:00 p.m., Monday through Friday) and shall be given on forms prescribed by the police department. After a nonalcohol event notice has been given, the licensee may cancel an event only by giving similar notice to the police department in accordance with the provisions of this subsection. Regardless of the date given, all notices shall expire and be deemed cancelled no later than the date of expiration or revocation of the applicable retail class “B” or “class B” license.
- (2) During the period of any nonalcohol event, a notice card prescribed by the police department shall be posted at all public entrances to the licensed premises, notifying the general public that no alcoholic beverages may be consumed, sold or given away on, or carried into, the licensed premises during the event. Such notice cards shall be made available to a requesting licensee by the police department.
- (3) Once a nonalcohol event has commenced, no alcoholic beverages may be consumed, sold or given away on, or carried into, the licensed premises until the next day following the closing hours of the licensed premises.
- (4) During the period of any nonalcohol event, all alcoholic beverages shall be stored in a locked portion of the licensed premises, in a secure place, out of the sight and physical reach of any patron present, and shall be under the direct and immediate control and supervision of the licensee or a licensed bartender in the employ of the licensee. All beer taps and automatic dispensers of alcoholic beverages (speed guns) shall be either disconnected, disabled or made inoperable.

(Code 1988, § 7-2-18; Res. of 9-2-1992, § 7-2-18)

Sec. 22-67 – 22-90. Reserved.

DIVISION III. OPERATOR’S LICENSE

Sec. 22-94. Required.

(a) *Class "A" or class "B" premises.* Except as provided under Wis. Stats. § 125.32(3)(b) and 125.07(3)(a)10, no premises operated under a class "A" or class "B" license or permit may be open for business unless the licensee or permittee, the agent named in the license or permit if the licensee or permittee is a corporation or a person who has an operator's license and is responsible for the acts of all persons serving any fermented malt beverages to customers is upon the premises. An operator's license issued in respect to a vessel under Wis. Stats. § 125.27(2) is valid outside the municipality that issues it. For the purpose of this section, any person holding a manager's license under Wis. Stats. § 125.18, or any member of the licensee's or manager's license under Wis. Stats. § 125.18, or any member of the licensee's or permittee's immediate family who has attained the age of 18 years, shall be considered the holder of an operator's license. No person, including a member of the licensee's or permittee's immediate family, other than the licensee, permittee or agent, may serve fermented malt beverages in any place operated under a class "A" or class "B" license or permit, unless he has an operator's license or is at least 18 years of age and is under the immediate supervision of the licensee, permittee, agent or a person holding an operator's license who is on the premises at the time of service.

(b) *Use by another.*

(1) No person may allow another to use his class "A" or class "B" license or permit to sell alcoholic beverages.

(2) The license or permit of a person who violates subsection (b)(1) of this section shall be revoked. (Code 1988, § 7-2-30; Res. of 9-2-1992, § 7-2-30)

Sec. 22-92. Application procedure.

(a) The village board may issue an operator's license on to persons 18 years of age or older, which shall be granted only upon application in writing on forms to be obtained from the village administrator. Operator's license shall be operative only within the limits of the village.

(b) All applications are subject to an investigation by the chief of police and/or other appropriate authority to determine whether the applicant and/or premises to be licensed complies with all applicable regulations, ordinances and laws. The police department shall conduct an investigation of the applicant including, but not limited to, requesting information from the state, surrounding municipalities and/or any community where the applicant has previously resides concerning the applicant's arrest and conviction record. Based upon such investigation, the chief of police shall recommend in writing to the village board approval or denial of the application. If the chief of police recommends denial, the chief of police shall provide in writing the reason for such recommendation.

(Code 1988, § 7-2-31; Res. of 9-2-1992, § 7-2-31)

Sec. 22-93. Validity; expiration.

Licenses issued under the provisions of this division shall be valid for a period of one year, and shall expire on June 30 of each even year.

(Code 1988, § 7-2-32; Res. of 9-2-1992, § 7-2-32)

Sec. 22-94. Fees; provisional license.

(a) *Annual fee.* The annual fee for an operator’s license shall be as set by the village board from time to time for the term, or part thereof.

(b) *Provisional license.* The village administrator may issue provisional operator’s licenses accordance with Wis. Stats. § 125.17(5). The fee for a provisional operator’s license shall be as set by the village board from time to time. The provisional operator’s license shall expire 60 days after its issuance or when an operator’s license is issued to the holder, whichever is sooner. Upon receiving an application for a temporary provisional license, the village administrator may issue such license without requiring the successful completion of the approved program as described in this division; however, such temporary license shall be used only for the purpose of allowing the applicant the privilege of being licensed as a beverage operator pending his successful completion of the approved program. A provisional license may not be issued to any person who has been denied an operator’s license by the village board or has had his operator’s license revoked or suspended within the preceding 12 months. The village administrator shall provide an appropriate application form to be completed in full by the applicant. The village administrator may revoke the issued provisional license if he discovers that the holder of the license made a false statement on the application.

(Code 1988, § 7-2-33; Res. of 9-2-1992, § 7-2-33)

Sec. 22-95. Issuance or denial.

(a) After the village board approves the granting of an operator’s license, the village administrator shall issue the license. Such license shall be issued and numbered in the order they are granted, and shall give the applicant’s name and address and the date of the expiration of such license.

(b) If the application is denied by the village board, the village administrator shall inform the applicant in writing of the denial, the reasons for such denial, and of the opportunity to request a reconsideration of the application by the village board in a closed session. Such notice must be sent by registered mail to, or served upon, the applicant at least ten days prior to the village board’s reconsideration of the matter. At such reconsideration hearing, the applicant may present evidence and testimony as to why the license should be granted. If, upon reconsideration, the village board again denies the application, the village administrator shall notify applicant in writing of the reasons for such denial. An applicant who is denied any license upon reconsideration of the matter may apply to circuit court for review, pursuant to Wis. Stats. § 125.12(2)(d).

- (c) Consideration for the granting or denial of a license will be based on the:
- (1) Arrest and conviction record of the applicant, subject to the limitations imposed by Wis. Stats. §§ 111.321, 111.322, 111.335 and 125.12(1)(b);
 - (2) Financial responsibility of the applicant;
 - (3) Appropriateness of the location and the premises where the license business is to be conducted; and
 - (4) Applicant’s fitness, generally, for the trust to be reposed.

(d) If a licensee is convicted of an offense substantially related to the licensed activity, the village board may act to revoke or suspend the license.

(e) An application may be denied based on the applicant's arrest and conviction record if the applicant has been convicted of a felony, unless duly pardoned, or if the applicant has habitually been a law offender. For the purposes of this licensing procedure, the term "has habitually been a law offender," generally, means an arrest or conviction of at least two offenses which are substantially related to the licensed activity within the five years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the village board, the village board reserves the right to consider the severity, and facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the village board, at its discretion, may, based upon an arrest or conviction record of two or more offenses which are substantially related to the licensed activity within the five years immediately preceding, act to suspend such license for a period of one year or more.

(Code 1988, § 7-2-34)

Sec. 22-96. Training course.

(a) Except as provided in subsection (b) of this section, the village board may not issue an operator's license, unless the applicant has successfully completed a responsible beverage server training course at any location that is offered by a vocational, technical and adult education district and that conforms to curriculum guidelines specified by the board of vocational, technical and adult education or the applicant fulfills one of the following requirements:

- (1) The person is renewing an operator's license.
- (2) The person held a class "A," class "B," "class A" or "class B" license or permit or a manager's or operator's license within the last two years.
- (3) The person has completed such training course within the last two years.

(b) The village board may issue a provisional operator's license to a person who is enrolled in a training course under subsection (a) of this section, and shall revoke the license if the applicant fails to successfully complete the course in which he is enrolled.

(c) The village board may not require that applicants for operators' licenses undergo training in addition to the training required under subsection (a) of this section, but may require applicants to purchase, at cost, materials that deal with relevant local subjects not covered in the course under subsection (a) of this section.

(Code 1988, § 7-2-35)

Sec. 22-97. Display.

Each license issued under the provisions of this division shall be posted on the premises whenever the operator dispenses beverages, or shall be in his possession, or he shall carry a license card.

(Code 1988, § 7-2-36)

Sec. 22-98. Violation; revocation.

Violation of any of the terms or provisions of law or this division relating to operator's licenses by any person holding such operator's license shall be cause for revocation of the license.
(Code 1988, § 7-2-37)

Secs. 22-99 – 22-130. Reserved.

ARTICLE III. CIGARETTES

Sec. 22-131. License.

(a) *Required.* No person shall, in any manner, directly or indirectly, upon any premises or by any device, sell, exchange, barter, dispose of or give away, or keep for sale, any cigarette, cigarette paper or cigarette wrapper, or any substitute therefor, without first obtaining a license as provided in this section.

(b) *Application; fee.* Every person desiring a license under this article shall file an application with the village administrator, stating the name of the person and place for which such license is desired. Each license shall be filed by the village administrator, and shall name the licensee and place wherein he is authorized to conduct such business, and the license shall not be delivered until the applicant shall pay a licensee fee of as set by the village board from time to time to the village administrator.

(c) *Issuance; term.* Licenses for the sale, exchange, barter, disposition of or giving away or keeping for sale of cigarette papers or wrappers, or any substitute therefor, shall be issued by the village administrator. Each license shall be issued on July 1 each year, or whenever applied for after such date, and shall continue in force from the date of issuance until the succeeding June 30, unless revoked sooner for any violation of this article.

(Code 1988, § 7-3-1; Res. of 4-7-1999, § 7-3-1)

State law reference - Tobacco retailers generally, Wis. Stats. § 134.65.

Secs. 22-132 – 22-160. Reserved.

ARTICLE IV. DIRECT SELLERS

Sec. 22-161. 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:

Charitable organization includes any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such, but shall not include religious organizations.

Clerk means the village administrator.

Direct seller means any individual who, for himself or a partnership, association or corporation, sells

goods, or takes sales orders for theater delivery of goods, at any location other than the permanent business place or residence of such individual, partnership, association or corporation, and shall include, but not be limited to, peddlers, solicitors and transient merchants. The sale of goods includes donations required by the direct seller for the retention of goods by a donor or prospective customer.

Goods includes personal property of any kind and goods provided incidental to services offered or sold.

Permanent merchant means a direct seller who, for at least one year prior to the consideration of the application of this article to such merchant, has continuously:

- (1) Operated an established place of business within the village; or
- (2) Resided in the village and now does business from his residence.

Person means all humans of any age or sex, partnerships, corporations, associations, groups, organizations and any other description of a collection of human beings working in concert or for the same purpose or objective.

(Code 1988, § 7-4-2)

Cross reference - Definitions generally, § 1-2.

Sec. 22-162. Registration required.

It shall be unlawful for any direct seller to engage in direct sales within the village without being registered for such purpose as provided in this article.

(Code 1988, § 7-4-1)

Sec. 22-163. Exemptions.

The following shall be exempt from the provisions of this article requiring the payment of a license fee, but shall comply with the registration requirements and other regulations of this article:

- (1) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes;
- (2) Any person selling goods at wholesale to dealers in such goods;
- (3) Any person selling agricultural products which such person has grown;
- (4) Any permanent merchant, or employee thereof, who takes orders away from the established place of business for goods regularly offered for sale by such merchant within the county and who delivers such goods in their regular course of business;
- (5) Any person who has an established place of business where the goods being sold are offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested a home visit by, such person;

- (6) Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer;
- (7) Any person selling, or offering for sale, a service unconnected with the sale, or offering for sale, of goods;
- (8) Any person holding a sale required by statute or order of any court, and any person conducting a bona fide auction sale pursuant to law;
- (9) Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of such organization, provided that proof is submitted to the village administrator that such charitable organization is registered under Wis. Stats. § 440.41, or if such organization is exempt from such statute's registration requirements, it shall be required to register under this article, and a list of individual charitable solicitors shall also be filed with the village administrator;
- (10) Any person who claims to be a permanent merchant, but against whom complaint has been made to the village administrator that such person is a transient merchant, provided that proof is submitted to the village administrator that such person has leased for at least one year, or purchased, the premises from which he is conducting business, or proof that such person has conducted such business in the village for at least one year prior to the date the complaint was made.

(Code 1988, § 7-4-3)

Sec. 22-164. Registration form; fee; appointment of village administrator as agent to accept service of process.

- (a) Applicants for registration must complete and return to the village administrator a registration form furnished by the village administrator, which shall require the following information:
- (1) Name, permanent address and telephone number, and temporary address, if any;
 - (2) Height, weight, color of hair and eyes, and date of birth;
 - (3) Name, address and telephone number of the person that the direct seller represents or is employed by, or whose merchandise is being sold;
 - (4) Temporary address and telephone number from which the business will be conducted, if any;
 - (5) Nature of business to be conducted and a brief description of the goods and any services offered;
 - (6) Proposed method of delivery of the goods, if applicable;
 - (7) Make, model and license number of any vehicle to be used by the applicant in the conduct of his business;
 - (8) Last cities, villages and towns, not to exceed three, where the applicant conducted similar

business just prior to making the registration;

- (9) Place where the applicant can be contacted for at least seven days after leaving the village;
 - (10) Statement as to whether the applicant has been convicted, within the last five years, of any crime or ordinance violation related to the applicant's transient merchant business, the nature of the offense and the place of conviction.
- (b) Applicants shall present the following to the village administrator for examination:
- (1) A driver's license or other proof of identity, as may be reasonably required;
 - (2) A state certificate of examination and approval from the sealer of weights and measures where the applicant's business requires use of weighing and measuring devices approved by state authorities;
 - (3) A state health officer's certificate where the applicant's business involves the handling of food or clothing and is required to be certified under state law, and such certificate shall state that the applicant is apparently free from any contagious or infectious disease, and shall be dated not more than 90 days prior to the date the application for a license is made.
- (c) At the time the registration is returned, a fee shall be paid to the village administrator to cover the cost of processing the registration. Each and every member must file a separate registration form. The fee for a direct seller's, solicitor's or canvasser's license shall be set from time to time by the village board and is on file in the village offices, and shall be valid for a term of one year from the date of issuance.
- (d) The applicant shall sign a statement appointing the village administrator as his agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant if the applicant cannot, after reasonable effort, be served personally.
- (e) Upon payment of the registration fee and the signing of the statement as set forth in this section, the village administrator shall register the applicant as a direct seller and date the entry. Such registration shall be valid for a period of one year from the date of entry, subject to subsequent refusal as provided in section 22-165(b).
(Code 1988, § 7-4-4; Res. of 9-2-1992, § 7-4-4(c))

Sec. 22-165. Investigations.

- (a) Upon receipt of each application, the village administrator may immediately refer the application to the chief of police, who may make and complete an investigation of the statements made in the registration.
- (b) The village administrator shall refuse to register the applicant if it is determined, pursuant to the investigation as set forth in subsection (a) of this section, that:

- (1) The application contains any material omission or materially inaccurate statement;
- (2) Complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns, not exceeding three, in which the applicant conducted similar business;
- (3) The applicant was convicted of a crime, statutory violation or ordinance violation within the last five years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or
- (4) The applicant failed to comply with any applicable provision of section 22-164(b).
(Code 1988, § 7-4-5)

Sec. 22-166. Appeals.

Any person who is denied registration may appeal the denial through the appeal procedure provided by ordinance or resolution of the village board or, if no appeal procedure has been adopted, then under the provisions of Wis. Stats. §§ 68.07 – 68.16.

(Code 1988, § 7-4-6)

Sec. 22-167. Regulations.

(a) *Prohibited practices.*

(1) A direct seller shall be prohibited from:

- a. Calling at any dwelling or other place between the hours of 9:00 p.m. and 8:00 a.m., except by appointment;
- b. Calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of a similar meaning;
- c. Calling at the rear door of any dwelling place; or
- d. Remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.

(2) A direct seller shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any goods offered for sale, the purpose of his visit, his identity or the identity of the organization he represents. A charitable organization direct seller shall specifically disclose what portion of the sale price of goods being offered will actually be used for the charitable purpose for which the organization is soliciting. Such portion shall be expressed as a percentage of the sale price of the goods.

(3) No direct seller shall impede the free use of sidewalks and streets by pedestrians and vehicles. All traffic and parking regulations shall be observed where sales are made from vehicles.

- (4) No direct seller shall make any loud noise or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a 100-foot radius of the source.
 - (5) No direct seller shall allow rubbish or litter to accumulate in or around the area in which he is conducting business.
 - (b) *Disclosure requirements.*
 - (1) After the initial greeting and before any other statement is made to a prospective customer, a direct seller shall expressly disclose his name, the name of the company or organization he is affiliated with, if any, and the identity of goods or services he offers to sell.
 - (2) In accordance with the procedure as set forth in Wis. Stats. § 423.203, if any sale of goods is made by a direct seller, or any sales order for the later delivery of goods is taken by the seller, the buyer shall have the right to cancel the transaction if it involves the extension of credit or is a cash transaction of more than \$25.00, and the seller shall give the buyer two copies of a typed or printed notice of such fact, which notice shall conform to the requirements of Wis. Stats. § 423.203(1)(a)(b) and (c)(2) and (3).
 - (3) If the direct seller takes a sales order for the later delivery of goods, he shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance, whether full, partial or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date and whether a guarantee or warranty is provided and, if so, the terms thereof.
- (Code 1988, § 7-4-7)

Sec. 22-168. Records.

The chief of police shall report to the village administrator all convictions for violations of this article, and the village administrator shall note any such violation on the record of the registrant convicted of such violation.

(Code 1988, § 7-4-8)

Sec. 22-169. Registration revocation.

- (a) Registration may be revoked by the village board after notice and hearing if the registrant:
 - (1) Made any material omission or materially inaccurate statement in the application for registration;
 - (2) Made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales;
 - (3) Violated any provision of this article; or
 - (4) Was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling.

- (b) Written notice of the hearing shall be personally served on the registrant at least 72 hours prior to the time set for the hearing. Such notice shall contain the time and place of the hearing and a statement of the acts upon which the hearing will be based.

(Code 1988, § 7-4-9)

Secs. 22-170 – 22-200. Reserved.

ARTICLE V. MOBILE HOMES

Sec. 22-201. Monthly parking fee imposed; limitations on parking.

(a) There is imposed on each owner of a nonexempt, occupied mobile home within the village a monthly parking fee determined in accordance with Wis. Stats. § 66.0435(3), which is adopted by reference and made part of this section as if fully set forth in this section. It shall be the full and complete responsibility of the licensee to collect the proper amount from each mobile home owner. Licensees shall pay such parking permit fees to the village administrator on or before the tenth day of the month following the month for which such fees are due in accordance with the terms of this article and such regulations as the village administrator may reasonably promulgate.

(b) Licensees of mobile home parks and owners of land on which any occupied, nonexempt mobile homes are parked shall furnish information to the village administrator and assessor on such homes added to their park or land within five days after arrival of such homes, on forms furnished by the village administrator in accordance with Wis. Stats. § 66.0435(3)(c)2.

(c) Occupants or owners of nonexempt mobile homes parked outside of a mobile home park shall remit such fees directly to the village administrator as provided in subsection (a) of this section. It shall be the full and complete responsibility of the licensee of a mobile home park to collect such fees from each occupied, nonexempt mobile home in such park and remit such fees to the village administrator as provided in subsection (a) of this section.

(d) Upon receipt of notice from the village administrator of their liability for the monthly parking permit fee, owners of nonexempt, occupied mobile homes shall remit a cash deposit set by the village board from time to time and on file in the village offices to the village administrator to guarantee payment of such fees when they are due to the village. It shall be the full and complete responsibility of the licensee of a mobile home park to collect such cash deposits from each occupied, nonexempt mobile home in such park and to remit such deposits to the village administrator. Upon receipt of a notice from the owner or licensee that the nonexempt, occupied mobile home has been, or is about to be, removed from the village, the village administrator shall apply the cash deposit to reduce any monthly parking permit fees for which the owner is liable and refund the balance, if any, to the owner.

(e) It shall be unlawful for any person to park any mobile home within the village at any site other than a licensed mobile home park.

(Code 1988, § 7-5-1)

Secs. 22-202 – 22-230. Reserved.

ARTICLE VI. MASSAGE ESTABLISHMENTS**Sec. 22-231. 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 masseurs or masseuses, who render any service for the licensee and receive compensation directly from the licensee, but have no physical contact with customers or clients.

Licensee means the operator of a massage establishment.

Massage means any method of pressure on, friction against or stroking, kneading, rubbing, tapping, pounding, bathing, touching, binding, painting, irritating or stimulating of the external parts of the body with the hands or the aid of any manual, mechanical or electrical apparatus or appliance, with or without such supplementary aids as rubbing alcohol, liniment, antiseptic oil, powder, creme, lotion, soap, ointment or other similar preparation commonly used in such practice.

Massage establishment means any establishment having its place of business where any person engages in or carries on, or permits to be engaged or carried on, any of the activities listed in the definition of Massage in this section.

Massage services means the providing of a massage by any person.

Masseur and masseuse mean persons who, for any consideration whatsoever, engage in the practice of massage, as defined in this section.

Person means any individual, copartnership, firm, association, joint stock company or corporation, or any combination of individuals of whatever form or character.

(Code 1988, § 7-6-1)

Cross reference – Definitions generally, § 1-2.

Sec. 22-232. License 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, upon any premises within the village, the operation of a massage establishment, as defined in section 22-231, without first having obtained a license from the village administrator, which shall be issued upon written application and shall be subject to cancellation as provided in this article.

(Code 1988, § 7-6-2)

Sec. 22-233. Application for massage establishment license; fee.

(a) Every applicant for a permit to maintain, operate or conduct a massage establishment shall file an application, in triplicate, under oath, with the village administrator, upon a form provided by the village,

and pay a fee to the village as set by the village board from time to time and on file in the village offices, which shall issue a receipt, which shall be attached to the application filed with the village administrator and the chief of police. The village administrator shall forthwith refer copies of such application and all additional information to the fire inspector. Within 30 days, such officials shall inspect the premises proposed to be operated as a massage establishment and make recommendations to the village board concerning compliance with village ordinances. After review by the village board pursuant to section 22-235, the village administrator shall notify the applicant as to whether his application has been granted, denied or held for further investigation or corrective action. The period held for corrective action or additional investigation shall not exceed an additional 30 days, unless otherwise agreed to by the applicant. At the conclusion of such period, or such longer period if agreed to, the village administrator shall advise the applicant in writing as to whether the application has been granted or denied. If the application is denied, the village administrator shall advise the applicant in writing of the reason for such denial.

(b) The following shall be grounds for denial of the application:

- (1) The failure or refusal of the applicant to give any information relevant to the investigation of the application within a reasonable time;
- (2) The refusal or failure of the applicant to appear at any reasonable time and place for examination, under oath, regarding the application; or
- (3) The refusal of the applicant to submit to or cooperate with any inspection required by this section.

(Code 1988, § 7-6-3)

Sec. 22-234. Additional information required for license to operate a massage establishment.

The application for a license to operate a massage establishment shall set forth the services to be administered and the proposed place and facilities thereof. In addition, any applicant for a license, which shall be the sole proprietor if a sole proprietor applicant, a partner if a partnership applicant, and the designated agent if a corporate applicant, shall furnish the following information:

- (1) Written proof that each individual is at least 18 years of age.
- (2) Current residential addresses.
- (3) Whether the individual has had any license denied, revoked or suspended elsewhere for a massage establishment, the reason therefor and the business activity or occupation of the individual subsequent to each suspension, revocation or denial.
- (4) Satisfactory proof that the applicant has been a resident of the state for at least one year, and of the county for at least 90 days.

(Code 1988, § 7-6-4)

Sec. 22-235. Issuance of license; duration; renewal.

(a) Upon receipt of the recommendations of the respective agencies and with the information contained in the application, together with all additional information provided therein, the village board may issue, after receipt of the recommendations of the respective village departments and public hearing, a license to maintain, operate or conduct a massage establishment, unless the village board finds that the:

- (1) Operation of the massage establishment as proposed by the applicant, if permitted, would not comply with applicable laws and ordinances, including, but not limited to, chapters 10, 18, 38 and 58 of this Code.
- (2) Applicant or any other person who shall be directly or indirectly engaged in the management and operation of the massage establishment has been convicted of a felony.
- (3) Operation of the massage establishment as proposed by the applicant, if permitted, would violate the provisions of this article.

(b) The massage establishment license shall be for a period of one year from the date of application, unless sooner suspended or revoked, and such license must be renewed annually.

(Code 1988, § 7-6-5)

Sec. 22-236. Construction and maintenance requirements.

Any massage establishment, as defined in section 22-231, shall construct and maintain its facilities in accordance with the following regulations:

- (1) All massage parlors and restrooms used in connection therewith shall be constructed of materials and maintained so that they are impervious to moisture, bacteria, mold or fungus growth.
- (2) Shower rooms must be finished in tile or equal material, with proper floor drains.
- (3) Each massage establishment shall have a janitor's closet which shall be provided for the storage of cleaning supplies.
- (4) Floors, walls and equipment in massage parlors, and restrooms and bathrooms used in connection therewith, must be kept in a state of good repair and sanitary, at all times. Linens and other materials shall be stored at least six inches off the floor. Sanitary towels, washcloths, cleaning agents and toilet tissue must be available for each customer.
- (5) Individual lockers shall be made available for use by each customer. Such lockers shall have a separate key for locking.
- (6) Doors on massage rooms shall not be locked, but shall contain an adequate door latch for privacy. All massage rooms shall be clearly identified by doorplates or signs.
- (7) Each massage establishment shall have approved fire extinguishers and fire exits designated by fire exit signs.

- (8) If any provision of this section is inconsistent with a comparable and applicable provision of the building code as set forth in chapter 10 of this Code, the provision of the building code shall govern to the extent of such inconsistency.
- (9) The establishment shall permit inspection of the premises by building inspectors, fire inspectors, health inspectors and law enforcement officers at any time during business hours.
- (10) During business hours, entrance doors shall be open to the public the same as any other business.
(Code 1988, § 7-6-6)

Sec. 22-237. Masseur and masseuse permits.

Any person who engages in the practice of massage, as defined in section 22-231, shall file an application for a permit as a masseur or masseuse, which application shall be filed with the village administrator upon the form provided by the village, and shall pay to the village a nonrefundable filing fee for the original application and each renewal application as set by the village board from time to time and on file in the village offices.

(Code 1988, § 7-6-7)

Sec. 22-238. Masseur and masseuse permit applications.

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

- (1) Applicant's name and residence address.
- (2) Applicant's Social Security number.
- (3) Written evidence that the applicant is at least 18 years of age.
- (4) The applicant shall undergo a physical examination and present the written results of such examination for contagious and communicable diseases, which shall include a test which will demonstrate freedom from tuberculosis, and each test shall have been made by a licensed physician, and all laboratory tests shall be in licensed laboratories. The applicant shall then present a certificate with the results of each such examination, signed by a licensed physician, stating that the person examined is either free from any contagious or communicable disease or is incapable of communicating any such disease to others. Each applicant shall undergo the physical examination provided for in this subsection and present to the village administrator the certificate required in this subsection prior to the commencement of employment and at least once each 12 months thereafter.

(Code 1988, § 7-6-8)

Sec. 22-239. Issuance of masseur and masseuse permits; cancellation; duration; display.

- (a) The village administrator shall direct the issuance of a masseur or masseuse permit upon receipt of a completed application and certificate of examination stating that the person examined is either free from any contagious or communicable disease or is incapable of communicating any such disease to others.

- (b) Such permit is subject to cancellation if the applicant has failed to provide all of the information required by this article or has provided fraudulent information.
 - (c) Each permit for a masseur or masseuse, pursuant to this article, and any renewal shall be for a one year term, and such permit shall be displayed by the permit holder while engaged in his employment.
- (Code 1988, § 7-6-9)

Sec. 22-240. Hours of operation.

No massage establishment within the village shall be permitted to remain open for any purpose between the hours of 1:00 a.m. and 8:00 a.m., except during the period of the year for which the standard of time is advanced under statute when the premises shall be closed between the hours of 2:00 a.m. and 8:00 a.m.

(Code 1988, § 7-6-10)

Sec. 22-241. Interference with enforcement; violations; penalties.

(a) Interference. No person shall prevent, resist or interfere with any of the officers or employees of the village in the entering of any premises or the carrying out of their duties as village officials or employees.

(b) Violations; penalties. Any person violating any provision of this article, including the provisions of statute or any other materials which are incorporated by reference, shall suffer one or all of the following penalties, provided that in no case shall the forfeiture imposed for a violation of any provision of this article exceed the maximum for the same offense under laws of the state:

- (1) Any license or permit issued pursuant to this article may be suspended by the police chief, without a hearing, for not more than 30 days.
 - (2) Any license or permit issued pursuant to this article may be suspended more than 30 days or revoked by the village board after allowing the licensee or permittee a hearing, on notice.
 - (3) Any license or permit issued pursuant to this article may be suspended or revoked by a court of competent jurisdiction upon conviction of an ordinance violation.
 - (4) Any person who shall violate any provision of this article shall be subject to section 1-27.
- (Code 1988, § 7-6-11)

Secs. 22-242--22-270. Reserved.

ARTICLE VII. FIREWORKS*

Sec. 22-271. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to

***Cross reference** – Public safety and public works, ch. 38.

them in this section, except where the context clearly indicates a different meaning:

Fireworks means anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use, but does not include any of the following:

- (1) Fuel or a lubricant.
- (2) Firearm cartridge or shotgun shell.
- (3) Flare used, possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.
- (4) Match, cigarette lighter, stove, furnace, candle, lantern or space heater.
- (5) Cap containing not more than one-quarter grain of explosive mixture, if the cap is used, possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.
- (6) Toy snake which contains no mercury.
- (7) Model rocket engine.
- (8) Tobacco and tobacco product.
- (9) Sparkler on a wire or wood stick, not exceeding 36 inches in length or 0.25 inch in outside diameter, which does not contain magnesium, chlorate or perchlorate.
- (10) Device designed to spray out paper confetti or streamers, and which contains less than one-quarter grain of explosive mixture.
- (11) Device designed to produce an audible sound, but not explode, spark, move or emit an external flame after ignition, and which does not exceed three grams in total weight.
- (12) Device that emits smoke, with no external flame, and does not leave the ground.
- (13) Cylindrical fountain, not exceeding 100 grams in total weight, with an inside tube diameter not exceeding 0.75 inch, designed to sit on the ground and emit only sparks and smoke.
- (14) Cone fountain, not exceeding 75 grams in total weight, designed to sit on the ground and emit only sparks and smoke.

(Code 1988, § 7-7-1(a))

Cross reference – Definitions generally, § 1-2.

Sec. 22-272. Sale.

No person may sell, or possess with the intent to sell, fireworks, except:

- (1) To a person holding a permit under section 22-273(c);
- (2) To a municipality; or
- (3) For a purpose specified under section 22-273(b)(2)--(6).
(Code 1988, § 7-7-1(b))

Sec. 22-273. Use.

(a) *Permit required.* No person may possess or use fireworks without a user's permit from the village administrator or an official or employee of the village as designated by the village board. No person may use fireworks or a device listed under section 22-271(5)--(7) and (9)--(14) while attending a fireworks display for which a permit has been issued to a person listed under subsection (c)(1)--(5) or (c)(6) of this section if the display is open to the general public.

(b) **Permit exceptions.** Subsection (a) of this section does not apply to:

- (1) The village, except that village fire and law enforcement officials shall be notified at least two days in advance of the proposed use of fireworks.
 - (2) The possession or use of explosives in accordance with rules or general orders of the state department of commerce.
 - (3) The disposal of hazardous substances in accordance with rules adopted by the state department of natural resources.
 - (4) The possession or use of explosive or combustible materials in any manufacturing process.
 - (5) The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.
 - (6) A possessor or manufacturer of explosives in possession of a license or permit under 18 USC 841--848 if the possession of the fireworks is authorized under the license or permit.
- (c) *Permit issuance restricted.* A permit under this section may be issued only to the following:
- (1) Public authority.
 - (2) Fair association.
 - (3) Amusement park.
 - (4) Park board.
 - (5) Civic organization.
 - (6) Agricultural producer for the protection of crops from predatory birds or animals.

(d) *Crop protection signs.* A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.

(e) *Bond.* When issuing a permit under this section, the village administrator shall require an indemnity bond with good and sufficient sureties or a policy of liability insurance for the payment of all claims that may arise by reason of injuries to a person or property from the handling, use or discharge of fireworks under the permit. The bond or policy shall be taken in the name of the village, and any person injured thereby may bring an action on the bond or policy in the person's own name to recover the damage the person has sustained, but the aggregate liability of the surety or insurer to all persons shall not exceed the amount of the bond or policy. The bond or policy, together with a copy of the permit, shall be filed in the office of the village administrator. Whenever a fireworks event is to occur in or near a village park, the persons conducting the event shall first file evidence of insurability with the village administrator that they are covered with property damage, personal liability coverage and an umbrella coverage policy in the amount as set by the village board from time to time and on file in the village offices.

(f) *Required information for permit.* A permit under this section shall specify all of the following:

- (1) The name and address of the permit holder.
- (2) The date on and after which fireworks may be purchased.
- (3) The kind and quantity of fireworks which may be purchased.
- (4) The date and location of the permitted use.
- (5) Other special conditions prescribed by ordinance.

(g) *Copy of permit.* A copy of a permit under this section shall be given to the fire chief and chief of police at least two days before the date of authorized use.

(h) *Issuance of permit to minors prohibited.* A permit under this section may not be issued to a minor.

(Code 1988, § 7-7-1(c))

Sec. 22-274. Storage and handling.

(a) *Fire extinguishers required.* No wholesaler, dealer or jobber may store or handle fireworks on the premises, unless the premises are equipped with fire extinguishers approved by the fire chief.

(b) *Smoking prohibited.* No person may smoke where fireworks are stored or handled.

(c) *Notification of fire chief.* A person who stores or handles fireworks shall notify the fire chief of the location of the fireworks.

(d) *Storage distance from dwellings.* No wholesaler, dealer or jobber may store fireworks within 500 feet of a dwelling.

(e) *Storage distance from public assemblies or places where gasoline or volatile liquid is sold.* No person may store fireworks within 500 feet of a public assemblage or place where gasoline or volatile liquid is sold in quantities exceeding one gallon.

(Code 1988, § 7-7-1(d))

Sec. 22-275. Parental liability.

A parent or legal guardian of a minor who consents to the use of fireworks by the minor is liable for damages caused by the minor's use of the fireworks.

(Code 1988, § 7-7-1(e))

State law reference – Fireworks generally, Wis. Stats. § 167.10.

Secs. 22-276--22-300. Reserved.

ARTICLE VIII. STREET USE PERMITS

Sec. 22-301. Purpose.

The streets in possession of the village are primarily for the use of the public in the ordinary way. However, under proper circumstances, the village administrator may grant a permit for street use, subject to reasonable municipal regulation and control; therefore, this article is enacted to regulate and control the use of streets pursuant to a street use permit so that the health, safety and general welfare of the public and the good order of the village can be protected and maintained.

(Code 1988, § 7-8-1(a))

Sec. 22-302. Application.

A written application for a street use permit by persons or groups desiring such permit shall be filed with the village administrator on a form provided by him. The application shall set forth the following information regarding the proposed street use:

- (1) The name, address and telephone number of the applicants.
- (2) If the proposed street use is to be conducted for, on behalf of or by an organization, the name, address and telephone number of the headquarters of the organization and the authorizing responsible heads of such organization.
- (3) The name, address and telephone number of the persons who will be responsible for conducting the proposed use of the street.
- (4) The date and duration of time for which the requested use of the street is proposed to occur.
- (5) An accurate description of the portion of the street proposed to be used.
- (6) The approximate number of persons for whom the use of the proposed street area is requested.
- (7) The proposed use, described in detail, for which the street use permit is requested.

(Code 1988, § 7-8-1(b))

Sec. 22-303. Representative at meeting.

In order to provide any additional information which is reasonably necessary to make a fair determination as to whether a permit should be granted, the person or representative of the group making application for a street use permit shall be present when the village board gives consideration to the granting of the street use permit.

(Code 1988, § 7-8-1(c))

Sec. 22-304. Review of application.

Before any application for a street use permit is considered by the village board, the application shall be reviewed by the director of public works and chief of police for their recommendation as to the effect that the temporary closing of the street will have on the public safety and traffic movement in the area during the time the street may be closed.

(Code 1988, § 7-8-1(d))

Sec. 22-305. Mandatory denial.

- (a) An application for a street use permit shall be denied if the:
- (1) Proposed street use is primarily for private or commercial gain.
 - (2) Proposed street use would violate any federal or state law or ordinance.
 - (3) Proposed street use will substantially hinder the movement of police, fire or emergency vehicles, constituting a risk to persons or property.
 - (4) Application does not contain the information required in section 22-302.
 - (5) Application requests a period of time in excess of six hours for the use of the street.
 - (6) Proposed use could equally be held in a public park or other location.

(b) In addition to the requirement that the application for a street use permit shall be denied as set forth in subsection (a) of this section, the village board may deny a permit for any other reason if it concludes that the health, safety and general welfare of the public cannot adequately be protected and maintained if the permit is granted.

(Code 1988, § 7-8-1(e))

Sec. 22-306. Fee.

Each application for a street use permit shall be accompanied by a fee as set by the village board from time to time and on file in the village offices.

(Code 1988, § 7-8-1(f))

Sec. 22-307. Petition.

In addition to the fee required by section 22-306, each application for a street use permit, except for parades or races sponsored by civic, youth or scout organizations which have been in existence for at least six months, shall be accompanied by a petition designating the proposed area of the street to be used and the time for the proposed use, and such petition shall be signed by not less than 75 percent of the residents over 18 years of age residing along the portion of the street designated for the proposed use. Such petition shall be verified and submitted in substantially the following form:

PETITION FOR STREET USE PERMIT

We, the undersigned residents of the _____ hundred block of _____ Street in the Village of Spring Valley, hereby consent to the _____ recreational or business use of this street between the hours of _____ and _____ on _____, the _____ day of _____, 20_____, for the purpose of _____ and do hereby consent to the Village of Spring Valley to grant a street use permit for use of that portion of such street for such purpose and do hereby agree to abide by such conditions of such use as the Village of Spring Valley shall attach to the granting of the requested street use permit. We further understand that the permit will not be granted for longer than six hours on the date hereinabove specified, and, if applicable, agree to remove from the street prior to the end of such period all equipment, vehicles and other personal property placed or driven thereon during the event for which a permit is granted.

We designate _____ as the responsible person who shall apply for an application for a street use permit.
(Code 1988, § 7-8-1(g))

Sec. 22-308. Insurance; performance bond.

(a) The applicant for a street use permit shall be required to indemnify, defend and hold the village and its employees and agents harmless against all claims, liability, loss, damage or expense incurred by the village on account of any injury to or death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the permit, the applicant may be required to furnish a certificate of comprehensive general liability insurance with the village.

(b) The applicant may be required to furnish a performance bond prior to the permit being granted.
(Code 1988, § 7-8-1(h))

Sec. 22-309. Reasons for termination and revocation.

(a) A street use permit for an event in progress may be terminated by the police department if the health, safety and welfare of the public appears to be endangered by activities generated as a result of the event or the event is in violation of any of the conditions of the permits or ordinances of the village.

(b) The chief of police has the authority to revoke a permit or terminate an event in progress if the event organizers fail to comply with any of the regulations in the street use policy or conditions stated in the permit.
(Code 1988, § 7-8-1(i))

Secs. 22-310 – 22-340. Reserved.

ARTICLE IX. FLEA MARKETS AND GARAGE SALES**Sec. 22-341. Flea markets.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Flea market means a market, indoors or out of doors, where new or used items are sold from individual locations, with each location being operated independently from the other locations. Items sold include, but are not limited to, household items, antiques, rare items, decorations, used books and used magazines.

Flea market seller means a person selling items or offering items for sale at a flea market. Market means a place where goods are sold to the public.

(b) *License required.* No person shall operate the business of renting or allocating space to flea market sellers without first obtaining a license therefor from the village board. Applications for such licenses shall be made to the village administrator on forms to be provided by him. Only one license shall be required for each flea market, and the individual flea market sellers shall not be required to obtain a license under this subsection. The annual fee for such license shall be as set by the village board from time to time and on file in the village offices. The village board may restrict the license for use on certain dates and times. The site for the flea market shall comply with chapter 58, article II, of this Code.

(c) *Information to be filed.* The information to be filed with the village administrator, pursuant to this section, shall be as follows:

- (1) Name of the person conducting the sale.
- (2) Name of the owner of the property on which the sale is to be conducted, and consent of the owner if the applicant is other than the owner.
- (3) Location at which the sale is to be conducted.
- (4) Number of days of the sale.
- (5) Date and nature of any past sale.
- (6) Relationship or connection the applicant may have had with any other person conducting the sale and the dates of such sale.
- (7) Whether or not the applicant has been issued any other vendor's license by any local, state or federal agency.
- (8) Sworn statement or affirmation by the person signing that the information given is full and true and known to him to be so.

(d) *Records to be kept by licensee.* Each person required by this section to obtain a license shall keep accurate records of the names and addresses of each flea market seller, together with a brief description of the types of merchandise offered for sale by the seller.

(e) *Secondhand stores.* No person having a license as a secondhand store shall be required to obtain a license under this section for such business location.

(f) *Multiple locations.* Any person renting or allocating space to flea market sellers in more than one place of business shall be required to obtain a license for each place of business, provided that one license shall be adequate for locations that are on the same lot, adjacent lots or lots separated only by an alley.

(g) *Stolen goods.* No person shall sell or offer for sale at any flea market any goods known to such person to be stolen.

(h) *Purchases from children.* No flea market seller shall purchase any used household item, antique or used article whatsoever from any person under the age of 18 years, unless such person is accompanied by his parent or guardian.

(i) *Hours of operation.* Flea markets may remain open for business between the hours of 9:00 a.m. and 8:00 p.m., unless otherwise specified on the license by the village board at the time of issuance of such license.

(j) *Violations; penalties.* In addition to the suspension or revocation of a license issued under this section, any person who shall violate any provision of this section, or any regulation, rule or order made under this section, shall be subject to section 1-27.

(Code 1988, § 7-9-1)

Sec. 22-342. Garage sales.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Garage sale means all general sales open to the public, conducted from or on a residential premises, for the purpose of disposing of personal property, including, but not limited to, all sales entitled "rummage sale," "lawn sale," "yard sale," "porch sale," "room sale," "backyard sale," "patio sale" or "garage sale."

Personal property means property which is owned, utilized, maintained and acquired in the normal course of living in or maintaining a residence. Such term does not include merchandise which was purchased for resale or obtained on consignment.

(b) *Frequency; ownership of merchandise.*

(1) Garage sales, yard sales and similar merchandise sales may be held no more than twice per year at any residence and for a total of not more than eight days in such year. All goods offered for

sale shall be household goods or personal possessions from the residence where the sale is being held or, in the case of a group sale, from the residences of the participating households. In no case shall any sale become an outlet for wholesale or retail commercial sales.

- (2) Any garage sale, yard sale and similar merchandise sale by a nonprofit, philanthropic or civic organization must be approved by the village administrator and may be held no more than twice per year for not more than a total of eight days in such year. In no case shall any sale become an outlet for wholesale or retail commercial sales.
 - (c) *Hours; duration.* Garage sales shall be conducted between 7:00 a.m. and 8:00 p.m. Each sale shall last no longer than four consecutive days.
 - (d) *Signs.*
 - (1) Garage sale signs may not have an area of more than six square feet, with a maximum of two faces. Garage sale signs shall identify the location of the sale and must be located off of the village right-of-way.
 - (2) No garage sale sign may be located on any utility pole, traffic control device or property or the adjoining right-of-way of property of which the owner has not given explicit permission for the location of such sign.
 - (3) No garage sale sign shall be displayed more than one day before or one day following the sale.
 - (4) No more than one garage sale sign may be located at the sale site, and no more than two garage sale signs may be located off the site, except that two signs are permitted on corner lots, one facing each street.
- (Code 1988, § 7-9-2)

Secs. 22-343 – 22-370. Reserved.

ARTICLE X. AMUSEMENT ARCADES

Sec. 22-371. 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:

Amusement arcade means any premises or arcade operated by any organization, whether incorporated or not, which is the owner, lessee or occupant of a building whose primary purpose or object of its existence or operation is providing amusement devices to the public, at retail, and/or any premises operated by any organization, whether incorporated or not, which is the owner, lessee or occupant of a building, the majority of whose gross receipts are derived from providing amusement devices to the public, at retail, or where six or more amusement devices are located.

Amusement device means any table, platform, mechanical device or apparatus operated, or intended to be operated, for amusement, pleasure, test of skill, competition or sport, the use or operation of which is

conditioned upon payment of a consideration by the insertion of a coin or token in a slot or otherwise. Such amusement device shall include, but not be limited to, devices commonly known as baseball, football, basketball, hockey, pinball, shuffleboard, ray guns, bowling games, bumper games, skiball and electronic video games, including billiard tables and pool tables, whether coin-operated or not. Such definition does not include a bowling alley, jukebox or other coin-operated music machine or a mechanical children's amusement riding device.

(Code 1988, § 7-10-1)

Cross references – Definitions generally, § 1-2.

Sec. 22-372. General requirements.

The following general requirements shall apply to all amusement arcades licensed in accordance with this article:

- (1) All amusement arcades shall have a supervisor, 18 years of age or older, on the premises at all times in which the game room is open to the public.
- (2) Every amusement arcade shall provide an adequate area and number of bicycle racks for the orderly parking of bicycles, as determined by the village board, which area shall be separate from a required vehicle parking stall, and shall be located to not occupy any portion of a public sidewalk or otherwise obstruct pedestrian passage to and from the premises.
- (3) Game rooms licensed in this article shall comply with all other building, fire code and applicable village laws and regulations.
- (4) All arcades shall post rules of unacceptable patron conduct.

(Code 1988, § 7-10-4)

Sec. 22-373. License.

(a) *Required.* No person shall operate or keep an amusement arcade, as defined in section 22-371, without obtaining and posting in plain view on the premises a license to operate such arcade. No person shall operate or keep any amusement devices, as defined in section 22-371, without obtaining and posting in plain view on the premises a license to operate such devices. Applications shall be made to the village administrator on the form provided by such office, accompanied by an application fee as set by the village board from time to time and on file in the village offices for an amusement arcade license, and per device if not operating as an amusement arcade, as defined in section 22-371. The fee, which shall cover the cost of processing the application, shall be nonrefundable. The application shall set forth the following information:

- (1) The name and address of the applicant or, if a partnership, the names and addresses of all of the partners or, if a corporation, the names and addresses of the principal officers and registered agent thereof, and the name and address of the person who will supervise the game room.
- (2) The names and addresses of the owners of the amusement devices to be located on the licensed premises if different from the applicant. If the owner of the amusement devices is a partnership, the names and addresses of all of the partners or, if a corporation, the names and addresses of the

principal officers and registered agent thereof.

- (3) A building plan of the premises to be licensed, specifically describing and otherwise showing all dimensions, indicating the intended division of floor space, exits and entrances, the areas to be used for amusement devices, and the common aisles.
- (4) A site plan of the premises to be licensed, which shall include the proposed landscaping for such premises, and all of the improvements, parking and driveway areas, and landscaping located on property adjacent to and within 20 feet of the property lines of such premises.
- (5) If the applicant operates other game rooms in other areas, the names and addresses of such other licensed establishments.
- (6) Such additional information as the village deems necessary to assist it in determining the qualifications of the applicant for such license.

(b) *Inspections.* The village administrator shall notify the chief of police of each new application for a license, and the chief of police shall inspect, or cause to be inspected, each application and the premises, together with such other investigation as shall be necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto, including those governing sanitation in restaurants, and whether the applicant is a proper recipient of a license. The chief of police shall furnish the information derived from such investigation to the village board in writing, accompanied by a recommendation as to whether a license should be granted or refused. No license shall be renewed without a reinspection of the premises and a report as originally required.

(c) *Public hearing.* The application shall be forwarded to the village board, which shall hold a public hearing prior to the granting or denial of any amusement arcade license. In reviewing each application, the village board shall find that:

- (1) The establishment, maintenance or operation of an amusement arcade at the location requested will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
- (2) The proposed amusement arcade will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
- (3) The establishment of the amusement arcade will not impede the normal orderly development and improvement of the surrounding property for uses permitted in the district.
- (4) Adequate measures have been or will be taken to maintain good order surrounding the location of the amusement arcade.

(d) *Issuance; term; transferability.* The village administrator shall issue a license upon approval of the application by the village board and the payment by the applicant of an annual license fee as set by

the village board from time to time and on file in the village offices. All licenses issued shall be for a period of one year ending on June 30, and shall not be transferable.
(Code 1988, § 7-10-2; Res. of 9-2-1992, § 7-4-4(c))

Sec. 22-374. Hours of operation.

No premises for which an amusement arcade license has been issued shall be permitted to remain open for the offering of electronic amusement devices to the public, at retail, between the hours of 1:00 a.m. and 8:00 a.m.
(Code 1988, § 7-10-3)

Sec. 22-375. Revocation of license.

If an amusement arcade's location or operation fails to conform to the standards provided in this article or violates any other provision of this Code, such arcade's license may be revoked by the village board after notice and a public hearing.
(Code 1988, § 7-10-5)

Secs. 22-376--22-410. Reserved.

ARTICLE XI. NONMETALLIC MINING

Sec. 22-411. 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:

Environmental pollution has the meaning specified under Wis. Stats. § 283.01(4).

Nonmetallic mining and nonmetallic mining operation mean operations or activities for the extraction from the earth, for sale or use by the operator, of mineral aggregates such as stone, sand and gravel, fill material and nonmetallic minerals such as asbestos, beryl, clay, feldspar, peat and talc, related operations or activities such as excavation, grading or dredging if the purpose of such operations or activities is the extraction of mineral aggregates and nonmetallic minerals and related processes such as crushing, screening, scalping, dewatering and blending.

Nonmetallic mining refuse means waste soil, rock, mineral, liquid, vegetation and other waste material resulting from a nonmetallic mining operation. Such term does not include merchantable byproducts resulting directly from or displaced by the nonmetallic mining operation.

Nonmetallic mining site and site mean the location where a nonmetallic mining operation is proposed or conducted, including all surface areas from which materials are removed, related storage and processing areas, areas where nonmetallic mining refuse is deposited and areas disturbed by the nonmetallic mining operation by activities such as the construction or improvement of roads or haulageways.

Operator means any person who is engaged in a nonmetallic mining operation or nonmetallic mining

site reclamation, or who applies for or holds a nonmetallic mining permit issued under this article, whether individually, jointly or through subsidiaries, agents, employees, contractors or subcontractors.

Reclamation means the rehabilitation of a nonmetallic mining site, including, but not limited to, removal of nonmetallic mining refuse, grading of the site, replacement of topsoil, stabilization of soil conditions, establishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution, construction of fences and, if practical, restoration of plant, fish and wildlife habitat.

Replacement of topsoil means the replacement of the topsoil which was removed or disturbed by a nonmetallic mining operation or the provision of soil which is at least as adequate as the topsoil which was removed or disturbed for the purposes of providing adequate vegetative cover and stabilization of soil conditions.

(Code 1988, § 7-11-2)

Cross reference – Definitions generally, § 1-2.

Sec. 22-412. Applicability.

This article shall apply to any portion of a nonmetallic mining site, including unreclaimed portions of a site which were mined prior to the effective date of the ordinance from which this article is derived.

(Code 1988, § 7-11-3)

Sec. 22-413. Exempt activities.

This article shall not apply to the following activities:

- (1) Excavations or grading by a person solely for domestic use at his residence.
- (2) Excavations or grading conducted for highway construction purposes within the highway right-of-way.
- (3) Grading conducted for farming, preparing a construction site or restoring land following a flood or natural disaster.
- (4) Excavations for building construction purposes.
- (5) Any mining operation, the reclamation of which is required in a permit obtained under Wis. Stats. §§ 293.01--293.95.
- (6) Any activities conducted at a solid or hazardous waste disposal site which are required to prepare, operate or close a solid waste disposal facility under Wis. Stats. ch. 29, or a hazardous waste disposal facility under Wis. Stats. ch. 291, but may apply to activities related to solid or hazardous waste disposal which are conducted at a nonmetallic site separate from the solid or hazardous waste disposal facility, such as activities to obtain nonmetallic minerals to be used for lining, capping, covering or constructing berms, dikes or roads.

(Code 1988, § 7-11-4)

Sec. 22-414. Permit; reclamation plan; applications; performance bond; fences; inspections; prohibitions; enforcement officer.

(a) *Permit required.* No person shall operate any nonmetallic mining site or operation within the village unless he obtains a nonmetallic mining permit from the village board. The fee for such permit shall be as set by the village board from time to time and on file in the village offices, plus any actual village administrative expenses, payable by certified check. Operators of existing nonmetallic mining operations shall apply for such permit within 30 days of the effective date of the ordinance from which this article is derived.

(b) *Required information.* An application for a nonmetallic mining permit shall be submitted by the operator, and shall include:

- (1) An adequate description of the operation, including a legal description of the property;
- (2) A plan of the site, showing the proposed and existing roads and drives, and the sources, quantities and disposition of water to be used, if any;
- (3) Estimated dates for completion of the extraction and commencement, and completion dates for the reclamation;
- (4) A reclamation plan, and such other information as may be necessary to determine the nature of the operation and the effect on the surrounding area;
- (5) Methods of screening from adjacent properties;
- (6) Hours of operation;
- (7) Dust and noise control;
- (8) Maximum depth;
- (9) Blasting procedures;
- (10) Location and height of stockpiles; and
- (11) Such other information as the village board deems pertinent to the operation.

(c) *Reclamation plan.* The reclamation plan shall contain adequate provisions that:

- (1) All final slopes around the area shall be flatter than a three-to-one horizontal slope in a sand, gravel or borrow pit operation, or in a safe angle or repose in a quarrying operation;
- (2) Excavations below the grade of the nearest abutting public street or highway shall be set back from the street or highway a distance not less than the distance required for buildings and structures in the same zoning district;

- (3) Excavations made to a water-producing depth shall not be less than three feet when measured from the low water mark;
- (4) All final slopes shall be covered with adequate topsoil, and seeded to prevent erosion;
- (5) After completion of the anticipated operation, the area shall be cleared of all debris, and be left in a workmanlike condition, subject to the approval of the village board;
- (6) There is a timetable for completion of various stages of reclamation of the nonmetallic mining site.

(d) *License applications.* All applications for a license under this section shall be made in writing upon the written form provided by the village and distributed by the village administrator. All applications for such permits shall be signed by the applicant and filed with the village administrator at least 60 days prior to the licensing period. The village administrator shall immediately refer all applications for such license to the village board for a public hearing and approval. The operator shall receive written notice of the public hearing. The license shall be for a period of time as stated in the application or as modified by the village board. Modification of the application or reclamation plan may be permitted or additional conditions may be required upon application. The village board shall consider the effect of the operation and the proposed reclamation upon existing and future conditions, including streets, neighboring land development, land use drainage, water supply, water pollution, air pollution, soil erosion, natural beauty and land value of the locality. The village board may approve, approve conditionally or reject the application and reclamation plan.

(e) *Agreement and performance bond or cash escrow agreement.* Before a license and reclamation plan is approved by the village board, the operator shall submit an agreement and performance bond or cash escrow agreement to assure the following:

- (1) The operator shall pay for the cost of all improvements required by the village board in the reclamation plan.
- (2) Guaranteed completion of the required reclamation within a period determined by the village board.
- (3) Payment by the operator for all costs incurred by the village for review and inspection, including preparation and review of plans and specifications by the village engineer and attorney, as well as other costs of a similar nature.
- (4) The village may elect to have stages of the reclamation plan performed under the terms of a cash escrow agreement.
- (5) The required performance bond or cash escrow agreement shall be equal to 1 1/4 times the village engineer's estimated cost of the required improvements.
- (6) If the required reclamation is not completed within the designated period, all amounts held under the escrow agreement or performance bond shall be turned over and delivered to the village and applied to the cost of the required reclamation. Any balance remaining after such reclamation has

been done shall be returned to the operator. The village board, at its option, may extend the bond period for additional periods.

(f) *Fences.* Prior to reclamation, nonmetallic mining sites abutting residential zoned areas shall be enclosed by a security fence of not less than four feet in height. Fence gates shall be locked or secured when the site is unattended so as to prevent uncontrolled access by children to the site.

(g) *Inspection.* An authorized agent of the village may enter the premises of a nonmetallic mining operation in the performance of his official duties by permission of the property owner or operator or pursuant to a special inspection warrant issued under Wis. Stats. § 66.122, in order to inspect the premises and ascertain compliance with this article.

(h) *Prohibitions.* Nonmetallic mining operations within the village are prohibited if the nonmetallic mining site cannot be reclaimed in compliance with the standards of this article or if other requirements of this article are not met.

(i) *Enforcement officer.* The director of public works shall be responsible for the enforcement of this article.

(Code 1988, § 7-11-5)

Sec. 22-415. Permit revocation, cancellation, rescission or termination.

If any permit is revoked, cancelled, rescinded or terminated, the operator shall be given written notice of any charges or violations against him or the reasons proposed for such action, and he shall have an opportunity to be heard before the village board.

(Code 1988, § 7-11-6)

Sec. 22-416. Blasting and/or rock crushing.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Blasting means a method of loosening, moving or shattering masses of solid matter by the use of explosive compounds to prepare stone for crushing, building and/or ornamental use, or to prepare property for development.

Person means any individual, partner, corporation, company, trustee or association, together with the respective servants, agents and employees thereof.

Rock crusher means any device, machine, apparatus or equipment used individually or in conjunction with any other device, machine, apparatus or equipment for the purpose of crushing, grinding, breaking or pulverizing rock or stone.

(b) *Operation.* No person within the village shall operate a rock crusher or perform blasting in such a manner so that any dust, dirt or vibration from such operation shall, in any way, damage or injure any

person or property within the village. All blasting within the village shall be performed according to the requirements of Wis. Admin. Code ch. IND 5, Explosives and Blasting Agents, as amended.

Editor's note – The Wisconsin Administrative Code citation in this subsection (b) does not appear to correspond to the Wisconsin Administrative Code at the time of publication of this Code.

- (c) *Permit.*
- (1) *Required.* No person within the village shall operate a rock crusher or perform blasting who does not possess a proper permit therefor from the village.
 - (2) *Applications.* All applications for permits under this section shall be made in writing upon the written form provided by the village and distributed by the village administrator. All applications for such permits shall be signed by the applicant and filed with the village administrator at least 60 days prior to the licensing period. The village administrator shall immediately refer all applications for such permits to the village engineer. The village administrator shall issue a permit under this section only after first receiving the recommendation of the village engineer, the duly executed certified check for the permit fee as set by the village board from time to time and on file in the village offices and the submittal of the plan of operation, if required, as approved by the village engineer.
 - (3) *Certified check.* Each application for a permit under this section shall be accompanied by a certified check in the sum of the required permit fee as set by the village board from time to time and on file in the village offices, or a renewal thereof, which shall be payable to the village.
 - (4) *Plan of operation.* Each application for rock crusher permit under this section, or renewal thereof, shall be accompanied by a plan of operation, which shall include, methods of screening from adjacent properties; hours of operation; hours of blasting and operation of the rock crusher; dust and noise control; blasting procedures; location and height of stock piles; whether a rock crusher will be needed and how often; water supply; drainage course; maximum depth; legal description of property in question; and other information the village engineer deems pertinent to the proposed operation. Such plan of reorganization shall be approved by the village engineer.
 - (5) *Certificate of insurance.* Each application for a blasting permit shall be accompanied by a certificate of insurance, identifying the village as a party insured, in the amount of \$500,000.00 for damage to property, \$500,000.00 for injury to one person and \$1,000,000.00 for injury to more than one person caused by the blasting.
- (d) *Renewals.* All requests for renewals of permits under this section shall be made at least 60 days prior to the expiration date of the permit, and must comply with all requirements of subsection (c) of this section.
- (e) *Blasting procedures and controls.*
- (1) *Energy ratio.* The allowable vibration of any blast at the nearest occupied or used building off the subject premises shall not exceed an energy ratio of 0.5 or resultant particle velocity of 1.35 inches per second, based on the following formula:

$$\text{Energy ratio} = 0.5 = 10.823 f^2 A^2$$

where: f = frequency in cycles per second, A = amplitude or displacement in inches

$$\text{Energy ratio} = 0.274 V^2$$

(V = resultant particle velocity expressed in inches per second)

- (2) *Measurements.* When requested to do so by the village engineer, the operator of the quarry operation shall measure and submit data to substantiate compliance with the formula set forth in subsection (e)(1) of this section, and the operator of the quarry operation shall measure the air blast, when requested to do so by the village engineer. Such verification shall be performed by a seismological engineering firm acceptable to the village or by the village engineer. Instrumentation shall be by seismograph similar to VME Seismolog Model B and approved seismograph sound measuring equipment or approved equivalents. All expenses for such tests shall be paid by the quarry operator.
- (3) *Log.* A log file duplicate shall be kept of each blast, on forms similar to the form on file with the village administrator. The original copy of the blasting log shall be filed with the village administrator within 48 hours after the blast, and a copy shall be kept on file at the quarry office.
- (4) *Cover material.* Operators of quarries for building and/or ornamental stone removal shall cover Primacord, other detonating cord or surface-laid blasting devices with at least one foot of dirt or other suitable cover material.
- (f) *Permit fee; expiration date.* The permit fee for any permit issued pursuant to this section shall be as set by the village board from time to time for the following. No permit fee shall be prorated. All permits issued under this section shall expire on December 31 following the date of issuance of such permit.
- (1) Quarries using blasting to supply buildings and/or ornamental stone, per blasting period.
 - (2) Gravel crushing operations using portable or fixed crushing equipment less than 30 days per year, annually.
- (g) *Violations; penalties.* Any person who shall violate any of the provisions of this section shall be subject to a penalty as provided in section 1-27. However, upon conviction for the violation of any of the provisions of this section by the holder of a permit issued under this section, and in addition to the forfeiture provided, such permit shall be cancelled, revoked, rescinded and terminated.
- (h) *Right of licensee to hearing before nonrenewal, revocation, cancellation, rescission or termination of license.* Before renewal of any license issued under this section is refused or revoked, cancelled, rescinded or terminated, the licensee shall be given written notice of any charges or violations against him or the reasons proposed for nonrenewal or revocation, and shall have an opportunity to be heard before the village board.
- (Code 1988, § 7-11-7)

Chapters 23 – 25

RESERVED