



Village of Marathon City
Licensing and Regulation

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TITLE 7

LICENSING AND REGULATION

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7.1.1 DOG LICENSES REQUIRED; DEFINITIONS.

- (A) **License Required.** It shall be unlawful for any person in the Village to harbor or keep any dog of more than five (5) months of age after April 1 of the license year without complying with the provisions of this Chapter relating to the listing, licensing and tagging of the same.
- (B) **Definitions.** In this Chapter, unless the context or subject matter otherwise require:
- (1) “Owner” shall mean any person owning, harboring or keeping a dog and the occupant of any premises on which a dog remains or to which it customarily returns daily for a period of ten (10) days; such person is presumed to be harboring or keeping the dog within the means of this Section.
 - (2) “Pet” means a kept animal that is not native, not farmed, not identified on a State or Federal endangered and threatened species list, and is not a migratory bird.
 - (3) “At Large” means to be off the premises of the owner and not under the control of some person either by leash or otherwise, but a dog within an automobile of its owner, or in an automobile of any other person with the consent of the owner of said dog, shall be deemed to be upon the owner’s premises.
 - (4) “Dog” shall mean any canine (domestic), regardless of age or sex.
 - (5) “Neutered” as used herein as describing a dog shall mean a dog having nonfunctional reproductive organs.
 - (6) “Animal” means mammals, reptiles, birds, arthropods and amphibians.
 - (7) “Cruel” means causing unnecessary and excessive pain or suffering or unjustifiable injury or death.

- (8) “Law Enforcement Officer” has that meaning as appears in Sec. 967.02(5), Wis. Stats., and includes a humane officer under Sec. 58.07, Wis. Stats., but does not include a conservation warden appointed under Sec. 23.10, Wis. Stats.
- (9) “Farm Animal” means any warm-blooded animal normally raised on farms in the United States and used for food or fiber.

State Law Reference: Sections 174.05 through 174.10, Wis. Stats.

7.1.2 RABIES VACCINATION REQUIRED FOR LICENSE

- (A) **Rabies Vaccination.** The owner of a dog shall have the dog vaccinated against rabies by a veterinarian with thirty (30) days after the dog reaches five (5) months of age and revaccinated within one (1) year after the initial vaccination. If the owner obtains the dog or brings the dog into the Village after the dog has reached five (5) months of age, the owner shall have the dog vaccinated against rabies within thirty (30) days after the dog is brought into the Village unless the dog has been vaccinated as evidenced by a current certificate of rabies vaccination. The owner of a dog shall have the dog revaccinated against rabies by a veterinarian before the date of that immunization expires as stated on the certificate of vaccination or, if no date is specified, within three (3) years after the previous vaccination. The certificate of vaccination shall meet the requirements of Sec. 95.21(2), Wis. Stats.
- (B) **Issuance of Certificate of Rabies Vaccination.** A veterinarian who vaccinates a dog against rabies shall complete and issue to the owner a certificate of rabies vaccination bearing a serial number and in the form approved by the village stating the owner’s name and address, the name, sex, spayed or un-spayed, neutered or un-neutered, breed and color of the dog, the date of the vaccination, the type of rabies vaccination administered and the manufacturer’s serial number, the date that the immunization expires as specified for that type of vaccine by the Center of Disease Control of the U.S. Department of Health and Human Services and the Village.

- (C) **Copies of Certificate.** The veterinarian shall keep a copy of each certificate of rabies vaccination in a file maintained for this purpose until the date that the immunization expires or until the dog is revaccinated, whichever occurs first.
- (D) **Rabies Vaccination Tag.** After issuing the certificate of rabies vaccination, the veterinarian shall deliver to the owner a rabies vaccination tag of durable material being the same serial number as the certificate, the year the vaccination was given and the name, address and telephone number of the veterinarian.
- (E) **Tag to be Attached.** The owner shall attach the rabies vaccination tag or a substitute tag to a collar and a collar with the tag attached shall be kept on the dog at all times, but this requirement does not apply to a dog competition or training, to a dog while hunting, to a dog securely confined indoors or to a dog securely confined in a fenced area. The substitute tag shall be of a durable material and contain the same information as the rabies vaccination tag. The requirements of this paragraph do not apply to a dog which is not required to be vaccinated under Subsection (A).
- (F) **Duplicate Tag.** The veterinarian may furnish a new rabies vaccination tag with a new serial number to an owner in place of the original tag upon presentation of the certificate of rabies vaccination. The veterinarian shall then indicate the new tag number on the certificate and keep a record of the file.
- (G) **Cost.** The owner shall pay the cost of the rabies vaccination and the cost associated with the issuance of a certificate of rabies vaccination and the delivery of a rabies vaccination tag.

7.1.3 ISSUANCE OF DOG AND KENNEL LICENSE

(A) Dog Licenses.

- (1) It shall be unlawful for any person in the Village to own, harbor or keep any dog more than five (5) months of age without complying with the provisions of Sec. 174.05 through Sec. 174.10, Wis. Stats., relating to the listing, licensing and tagging of the same.
- (2) The owner of any dog more than five (5) months of age on January 1 of any year, or five (5) months of age within the license year, shall annually, or on or before the date the dog becomes five (5) months of age, pay a license tax and obtain a license.
- (3) The minimum license fee under this Section shall be as established in the Schedule of Village license fees. The license year shall commence January 1 and cease December 31.
- (4) Upon payment of the required license tax and upon presentation of evidence that the dog is currently immunized against rabies, as required by Sec. 7.1.2 of this Chapter, the Village Administrator shall complete and issue to the owner a license for such dog containing all information required by state law. The Village Administrator shall also deliver to the owner, at the time of issuance of the license, a tag of durable material bearing the same serial number as the license, the name of the county in which issued and the license year.
- (5) The owner shall securely attach the tag to a collar and the collar with the tag attached shall be kept on the dog for which the license is issued at all times, except as provided in Section 7.1.2(E).

- (6) The fact that a dog is without a tag attached to the dog by means of a collar shall be presumptive evidence that the dog is unlicensed. Any Village police or humane officer shall seize, impound or restrain any dog for which a dog license is required which is found without such tag attached.
- (7) Notwithstanding in the foregoing, every dog specifically trained to lead blind or deaf persons is exempt from the dog license tax, and every person owning such a dog shall receive annually a free dog license from the Village administrator upon application therefor.

(B) **Kennel Licenses.**

- (1) Any person who keeps or operates a kennel may, instead of the license tax for each dog required by this Chapter, apply for a kennel license for the keeping or operating of the kennel. Such person shall pay for the license year a license tax as established in the Schedule of Village License Fees. Upon payment of the required kennel license tax and, if required by the Village Board, upon presentation of evidence that all dogs over five (5) months of age are currently immunized against rabies, the Village Administrator shall issue the kennel license and a number of tags equal to the number of dogs authorized to be kept in the kennel. Kennels may only be located in commercial, industrial, agricultural districts after a conditional use permit has been issued pursuant to the Village Zoning Code.
- (2) The owner or keeper of a kennel shall keep at all times a kennel license tag attached to the collar of each dog over five (5) months old kept by the owner or keeper under a kennel license but this requirement does not apply to a show dog during competition, to a dog securely confined indoors or to a dog securely confined in a fenced area. These tags may be transferred from one dog to another within the kennel whenever any dog is removed from the kennel. The rabies vaccination tag or substitute tag shall remain attached to the dog for which it is issued at all times but this requirement does not apply to a show dog during competition, to a dog securely confined indoors or to a dog securely confined in a fenced area.

No dog bearing a kennel tag shall be permitted to stray or to be taken anywhere outside the limits of the kennel unless the dog is in leash or temporarily for the purposes of hunting, breeding, trial, training or competition.

State Law Reference: Sec. 174.053, Wis. Stats.

7.1.4 LATE FEES

The Village Administrator shall assess and collect a late fee of five dollars (\$5.00) from every owner of a dog five (5) months of age or over if the owner failed to obtain a license prior to March 1 of each year, or within thirty (30) days of acquiring ownership of a licensable dog if the owner failed to obtain a license on or before the dog reached licensable age. Said late fee shall be charged in addition to the required license fee.

7.1.5 RABIES QUARANTINE

- (A) **Dogs Confined.** If a district is quarantined for rabies, all dogs within the district shall be kept securely confined, tied, leashed or muzzled. Any dog not confined, tied, leashed or muzzled is declared a public nuisance and may be impounded. All officers shall cooperate in the enforcement of the quarantine. The Village Administrator shall promptly post in at least three (3) public places in the Village notices of quarantine.
- (B) **Exemption of Vaccinated Dog from Village Quarantine.** A dog which is immunized currently against rabies, as evidenced by a valid certificate of rabies vaccination or other evidence, is exempt from the Village quarantine provisions of Subsection (a) if a rabies vaccination tag or substitute tag is attached to the dog's collar.
- (C) **Quarantine or Sacrifice of an Animal Suspected of Biting a Person or Being Infected or Exposed to Rabies.**
 - (1) Quarantine or sacrifice of dog or cat. An officer shall order a dog quarantined if the officer has reason to believe that the animal bit a person, is infected with rabies or has been in contact with a rabid animal. If a quarantine cannot be imposed because the dog or cat cannot be captured, the officer may kill the animal. The officer may kill a dog or cat as a last resort or if the owner agrees. The officer shall attempt to kill the animal in a humane manner and in a manner which avoids damage to the animal's head.
 - (2) Sacrifice of other animals. An officer may order killed or may kill an animal other than a dog or cat if the officer has reason to believe that the animal bit a person or is infected with rabies.

(D) **Quarantine of Dog or Cat.**

- (1) Delivery to isolation facility or quarantine on premises of owner. An officer who order a dog or cat to be quarantined shall deliver the animal or shall order the animal delivered to an isolation facility as soon as possible but no later than twenty-four (24) hours after the original order is issued or the officer may order the animal to be quarantined on the premises of the owner if the animal is immunized currently against rabies as evidenced by a valid certificate of rabies vaccination or other evidence.
- (2) Health risk to humans. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal bit a person, the custodian of an isolation facility or the owner shall keep the animal under strict isolation under the supervision of a veterinarian for at least ten (10) days after the incident occurred. In this paragraph, “supervision of a veterinarian” includes, at a minimum, examination of the animal on the first day of isolation, on the last day of isolation and on one (1) intervening day. If the observation period is not extended and if the veterinarian certifies that the dog or cat has not exhibited any sign of rabies, the animal may be released from quarantine at the end of the observation period.
- (3) Risk to animal health.
 - (a) If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal and if the dog is not currently immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for one hundred eighty (180) days. The owner shall have the animal vaccinated against rabies between one hundred fifty-five (155) days and one hundred sixty-five (165) days after the exposure to a rabid animal.

- (b) If a dog or cat is order to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal but if the dog is immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for sixty (60) days. The owner shall have the animal revaccinated against rabies as soon as possible after exposure to a rabid animal.
- (4) Sacrifice of a dog or cat exhibiting symptoms of rabies. If a veterinarian determines that a dog or cat exhibits symptoms of rabies during the original or extended observation period, the veterinarian shall notify the owner and the officer who ordered the animal quarantined and the officer or veterinarian shall kill the animal in a humane manner and in a manner which avoids damage to the animal's head. If the dog or cat is suspected to have bitten a person, the veterinarian shall notify the person or the person's physician.
- (E) **Delivery of Carcass; Preparation; Examination by Laboratory of Hygiene.** An officer who kills an animal shall deliver the carcass to a veterinarian or local health department. The veterinarian or local health department shall prepare the carcass, properly prepare and package the head of the animal in a manner to minimize deterioration, arrange for delivery by most expeditious means feasible of the head of the animal to the State Laboratory of Hygiene and dispose of or arrange for the disposal of the remainder of the carcass in a manner which minimizes the risk or exposure to any rabies virus. The Laboratory of Hygiene shall examine the specimen and determine if the animal was infected with rabies. The Laboratory of Hygiene shall notify the Village, the veterinarian or local health department which prepared the carcass and, if the animal is suspected to have bitten a person, that person or the person's physician.
- (F) **Cooperation of Veterinarian.** Any practicing veterinarian who is requested to be involved in the rabies control program by an officer is encouraged to cooperate in a professional capacity with the Village, the Laboratory of Hygiene, the local health department, the officer involved and, if the animal is suspected to have bitten a person, the person's physician.

- (G) **Responsibility for Quarantine and Laboratory Expenses.** The owner of an animal is responsible for any expenses incurred in connection with keeping the animal in an isolation facility, supervision and examination of the animal by a veterinarian, preparation of the carcass for laboratory examination and the fee for the laboratory examination. If the owner is unknown, the county is responsible for these expenses.
- (H) **Penalties.** Those penalties outlined Section 95.21 (10) are hereby incorporate herein as if fully set forth

7.1.6 RESTRICTIONS ON KEEPING OF DOGS, FOWL AND OTHER ANIMALS.

(A) Restrictions. It shall be unlawful for any person within the Village to own, harbor or keep any dog which:

- (1) Habitually pursues any vehicle upon any public street, alley or highway in the Village.
- (2) Assaults or attacks any person or destroys property.
- (3) Is at large within the limits of the Village.
- (4) Habitually barks or howls to the annoyance of any person or persons.
(See Section 7.1.12)
- (5) Kills, wounds or worries any domestic or wild animal.
- (6) Is known by such person to be infected with rabies or to have been bitten by an animal known to have been infected with rabies.
- (7) In the case of a dog, is unlicensed.

(B) **Animals Running at Large.**

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

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

(C) **Owner’s Liability for Damage Caused by Dogs; Penalties; Court Order to Kill a dog.** The provisions of Sec. 174.02 Wis. Stats., are hereby adopted and incorporated as if fully set forth herein.

7.1.7 DANGEROUS ANIMALS.

(A) **Prohibitions.**

(1) No person shall own, harbor, keep, or maintain within the Village limits, any “dangerous animal,” except as provided in subsection (D) below.

(2) No person may bring into or keep within the Village limits, any animal that is determined to be a “prohibited dangerous animal” under this ordinance.

(3) No person shall offer for sale, sell, give away, breed, buy, or attempt to buy any dangerous animal within the Village except as permitted under this ordinance.

(4) No person shall own or harbor any animal for the purpose of animal fighting, or train, torment, badger, bait, or use any animal for the purpose of causing or encouraging said animal to attack human beings or domestic animals when not provoked.

(5) The issuance of a citation under this section need not be predicated on a determination that an animal is a dangerous or prohibited dangerous animal.

(B) **Definitions.**

“Dangerous animal” as used in this ordinance means:

(1) Any animal which approaches or chases any human being or domestic animal in a menacing fashion or apparent attitude of attack, without provocation, on public or private property, and, after evaluation by the chief of police or the chief’s designee, is determined to pose a threat to public safety or welfare;

- (2) Any animal which bites, inflicts injury, attacks or otherwise endangers the safety of human beings or domestic animals, without provocation, on public or private property, and, after evaluation by the chief of police or the chief's designee, is determined to pose a threat to public safety or welfare; or
- (3) Any animal owned, harbored or trained primarily or in part for the purpose of fighting.

"Prohibited dangerous animal" as used in this ordinance means:

- (1) Any animal that, while off the owner's or caretaker's property, has killed a domesticated animal without provocation;
- (2) Any animal that, without provocation, inflicts bodily harm on a person on public or private property;
- (3) Any animal brought from another city, village, town or county that has been declared dangerous or vicious or its equivalent by that jurisdiction;
- (4) Any dangerous animal that is not in compliance with any of the provisions of subsection (D);
- (5) Any animal declared dangerous under this ordinance that subsequently has a second or more reported unprovoked incidents in which the animal has bitten, inflicted injury, attacked or otherwise unreasonably endangered with aggressive or threatening behavior, the safety of a human being or pet animal on public or private property;
- (6) Any dog that is subject to being destroyed under Wis. Stats. §174.02(3); or
- (7) Any animal, owned, harbored or trained primarily or in part for the purpose of fighting.

(C) Procedure for declaring a dangerous animal.

- (1) The chief of police or the chief's designee, upon conducting an investigation, may issue an order declaring an animal to be a dangerous animal whenever he/she finds that an animal meets the definition of a dangerous animal in subsection (B). An owner or caretaker wishing to contest an order under this section shall proceed as provided in subsection (F).

- (2) Upon an animal being declared dangerous, the owner or caretaker shall immediately comply with the signage, leashing, muzzling and confinement requirements of subsection (D)(3) and (D)(5)-(7). The owner or caretaker shall comply with the requirements of subsection (D)(6)(B) within five (5) days of the order and with all other requirements in subsection (D) being satisfied within thirty (30) days of the order.
 - (3) Upon written request by the owner or caretaker, the chief of police or the chief's designee may waive any requirement specified in subsection (D) that he/she deems it to be inappropriate for a particular dangerous animal.
- (D) **Restrictions.** The owner or caretaker of any animal determined by the chief of police or the chief's designee to be a dangerous animal shall comply with all of the following conditions:
- (1) **Registration.** The owner or caretaker of any dangerous animal shall register it with the Village Clerk within thirty (30) days of the order and, thereafter, before January 1 of each year, by providing a current color photograph of the animal and payment of a registration fee as provided in section 7.12.1. The initial registration fee shall be reduced to the fee as provided in section 7.12.1 if the animal is required to be registered as a dangerous animal after July 1. Upon payment of the fee and satisfactory proof of compliance with the provisions and conditions of this ordinance, the owner shall be issued a dangerous animal certificate of registration. The owner or caretaker shall post the certificate of registration on the front door of the residence where the dangerous animal is being kept.
 - (a) The owner or caretaker of any dangerous animal shall also provide proof of current license and rabies certificate as required under sections 7.1.2 and 7.1.3 respectively at the time of registration and each year thereafter.
 - (2) **Liability Insurance.** At the time of registration, the owner or caretaker of any dangerous animal shall provide proof of liability insurance in the amount of at least \$250,000 for any acts of property damage or liability incurred by virtue of personal injury inflicted by such animal. Such insurance shall name the Village as coinsured solely for the purpose of notice of cancellation of the policy.

- (3) Display of Sign. The owner or caretaker of any dangerous animal shall display signs on his or her premises facing out from all sides of the premises warning that there is a dangerous animal on the property. This sign shall be visible and capable of being read from a public highway or thoroughfare or within twenty (20) feet of its placement. In addition, the sign shall include a pictorial symbol warning children of the presence of a dangerous animal.
- (4) Identification. The owner or caretaker of the dangerous animal shall provide written proof from a licensed veterinarian or humane society of a device which can be later detected to aid in the proper identification of the animal. The device must be numbered and the number must be provided to the chief of police or the chief's designee.
- (5) Collar. A leather collar shall be worn by the animal at all times, except when being groomed.
- (6) Duty to keep animal under restraint while on owner's or caretaker's property. While on the owner's or caretaker's property, a dangerous animal must be securely and humanely confined indoors or when outdoors, kept in a secure enclosed and locked pen or structure, suitable to prevent the entry of young children, and designed to prevent the animal from escaping or as set forth in subsection (D)(7).
 - (a) Indoor confinement. No dangerous animal may be kept on a porch, patio or in any part of a house or structure on the premises of the owner or caretaker that would allow the animal to exit the premises of its own volition. No dangerous animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the animal from exiting the structure.

(b) Outdoor confinement. All owners or caretakers of a dangerous animal must maintain on the property a pen or kennel as provided in this subsection. The pen or kennel shall be child proof from the outside and animal proof from the inside. A strong metal double fence with adequate space between fences (at least two feet) shall be provided so that a child cannot reach into the animal enclosure. Such pen or structure must have secure sides and a secure top attached to all sides. The pen or structure shall be locked with a key or combination lock when the animal is within the structure. If it has no bottom secured to the sides, the sides must be imbedded into the ground no less than two feet. The enclosure must also provide protection from the elements for the animal. All structures erected to house dangerous animals shall comply with all Village building and zoning regulations and be adequately lighted and ventilated and kept in a clean and sanitary condition.

(7) Duty to keep animal under restraint when off property. No owner or caretaker may permit a dangerous animal to go outside its dwelling, kennel or pen unless the animal is muzzled and restrained by a leather collar with harness and leather lead not exceeding four feet in length and is under control of an adult, able-bodied person competent to govern the animal and physically capable of controlling and restraining the animal. The animal may not be leashed to inanimate objects such as trees, posts and buildings. The animal shall be muzzled in a humane way by a muzzling device sufficient to prevent the animal from biting persons or other animals.

(8) Spay and neuter requirement. The owner or caretaker shall provide written proof from a licensed veterinarian that the animal has been spayed or neutered.

(E) Procedure for declaring a prohibited dangerous animal.

(1) The chief of police or the chief's designee, upon conducting an investigation, may issue an order declaring an animal to be a prohibited dangerous animal whenever he/she finds that an animal meets the definition of prohibited dangerous animal in subsection (B). An owner or caretaker wishing to contest an order under this section shall proceed as provided in subsection (F).

(2) Upon issuance of an order declaring an animal to be a prohibited dangerous animal, the owner or caretaker shall remove the animal from the Village with five (5) days after the date of the order.

(3) No owner or caretaker of a prohibited dangerous animal may sell or in any way transfer possession of the animal to any other person within the Village.

- (4) Any animal declared to be a prohibited dangerous animal that is not removed from the Village within five (5) days of it being declared a prohibited dangerous animal may be seized by the Village pursuant to Wis. Stats. §173.13(1).
- (5) The owner or caretaker shall provide the chief of police or the chief's designee within five (5) days of the animal being declared a prohibited dangerous animal, the name, address and telephone number of the person that will be in possession of the prohibited dangerous animal or a certification from a licensed veterinarian or local humane society that the prohibited dangerous animal was humanely euthanized. The owner or caretaker shall also present evidence to the police department showing that he or she has notified the police department or other law enforcement agency of the animal's new residence, including the name, address and telephone number of the new owner and advised that the animal is a prohibited dangerous animal.

(F) Appeal process for dangerous and prohibited dangerous animal.

- (1) Whenever an owner or caretaker wishes to contest an order of the chief of police or the chief's designee to declare an animal dangerous under subsection (C) or prohibited dangerous under subsection (E), he or she shall, within five (5) days after receipt of the order, deliver to the Village Clerk, a written objection to the order, addressed to the Fire and Police Committee, stating specific reasons for contesting the order. Upon receipt of the written objection, the matter shall be placed on the agenda for the Fire and Police Committee to be reviewed at the next regular meeting, unless the appeal is filed within four (4) days of the next meeting in which case it shall be heard at the following meeting or at the discretion of the chair of the Fire and Police Committee at a specially scheduled meeting. The Fire and Police Committee shall act as a quasi-judicial body allowing the animal's owner or caretaker an opportunity to present evidence as to why the animal should not be declared dangerous or prohibited dangerous. The Village elects not to be bound by Chapter 68, Wisconsin Statutes with respect to administrative procedure in this regard.
- (2) After the hearing, the owner or caretaker shall be notified of the Fire and Police Committee's determination.
- (3) If the owner or caretaker wishes to further contest the determination, he or she may, within five (5) days of receiving the Fire and Police Committee's decision, seek a review of the decision by the circuit court.

(G) **Notification.**

- (1) The owner or caretaker of a dangerous animal shall notify the police department immediately if a dangerous animal is at large.
- (2) The owner or caretaker of a dangerous animal shall notify the police department with twenty-four (24) hours if the dangerous animal has bitten or inflicted injury upon another animal or human being or has died.
- (3) No owner or caretaker may sell or transfer possession of a dangerous animal to another person without first notifying the person to whom the dangerous animal is being sold or transferred of the fact that such animal is a dangerous animal. The owner or caretaker shall also provide the police department with the name, address and telephone number of the new owner of the dangerous animal. If the dangerous animal is sold or transferred to a person outside the Village, the owner or caretaker shall present evidence to the police department showing that he or she has notified the police department or other law enforcement agency of the animal's new residence, including the name, address and telephone number of the new owner and advised that the animal is a dangerous animal.
- (4) The owner or caretaker shall update the Village Clerk and the police department within five (5) days upon moving the dangerous animal to another location.

(H) **Impoundment.**

- (1) Pending any investigation as to whether an animal is a dangerous or prohibited dangerous animal or pending a hearing on an appeal under subsection (F) of either determination, the animal must be securely confined in a humane manner either on the premises of the owner or caretaker, with a licensed veterinarian or other appropriate facility such as the local humane society. The owner or caretaker of any animal impounded on the premises of the owner or caretaker must comply with the restrictions set forth in subsection (D)(3) and (D)(5)-(d)(7). The chief of police or the chief's designee may order impoundment of the animal pending his/her investigation and through any appeal hearing under subsection (F), pursuant to Wis. Stats. §173.13(1). If an animal is determined to be dangerous, it may remain impounded until the owner or caretaker has complied with all restrictions set forth in subsection (D) or until such time as the chief of police or the chief's designee determines the animal may be safely returned to its owner or caretaker and upon payment of all costs and expenses under subsection (h)(2). If an animal is determined to be a prohibited dangerous animal, it may remain impounded until the owner or caretaker provides the police department adequate

assurances that the animal will be removed from the Village as provided in subsection (E)(2) and upon payment of all cost and expenses under subsection (H)(2). Any animal that has been impounded and remains unclaimed by its owner or caretaker for more than seven (7) days after written notice by certified mail has been sent to the owner or caretaker to his/her last known address advising that a determination has been made that the animal may be returned to the owner or caretaker upon compliance with the requirements of this subsection may be humanely euthanized pursuant to Wis. Stats. §173.23. Any owner or caretaker aggrieved by the impoundment order of the chief of police or the chief's designee may appeal such decision in the same manner and under the same procedures as set forth in subsection (F).

- (2) The owner or caretaker of the animal shall be liable to the Village for the costs and expenses of impounding an animal unless the chief of police or the chief's designee fails to declare the animal dangerous or prohibited dangerous or the determination is ultimately overturned by the Fire and Police Committee or a reviewing court.
 - (3) The owner or caretaker of an animal confined on the premises under subsection (H)(1) shall immediately notify the police department if the animal is loose or unconfined; has attacked, bitten or injured another animal; has attacked, bitten or injured a human being; or has died. The animal shall not be sold or given away during the confinement or impoundment period.
 - (4) The chief of police or the chief's designee shall make a reasonable attempt to promptly notify the owner or caretaker in writing of any impoundment under this subsection if he or she can be identified and located with reasonable effort. Mailing written notice to the owner's or caretaker's last known address shall satisfy this requirement.
- (I) **Destruction.** Any dog that has caused serious injury to a person or a domestic animal on two separate occasions off the owner's premises, without reasonable cause may be destroyed as a result of a judgment rendered by a court of competent jurisdiction as specified under Wis. Stats. §174.02(3). The Village attorney may petition an appropriate court to obtain a court order to destroy such a dog.

(J) Duration of dangerous animal status.

- (1) The chief of police or the chief's designee may remove the declaration of dangerous animal upon petition by the owner or caretaker of an animal upon a finding of all of the following:
 - (a) The owner or caretaker demonstrates that changes in circumstances or measures taken by the owner or caretaker have mitigated the risk to public safety;
 - (b) The owner or caretaker demonstrates there have been no additional reported instances of the behavior set forth in subsection (B) within a thirty-six (36) month period from the date of the order declaring the animal dangerous;
 - (c) The owner or caretaker provides documentation from an accredited dog training specialist of attending and passing either an animal socialization program offered through the Association of Pet Dog Trainers or the American Kennel Club Canine Good Citizen Program; and
 - (d) The chief of police or the chief's designee concludes from all of the evidence presented the animal no longer presents a risk to public safety.

(K) Penalties for violations.

- (1) An owner or caretaker of a dangerous animal who fails to comply with the provisions of subsection (D) is subject to a forfeiture of not less than \$100.00 nor more than \$250.00 per day.
- (2) An owner or caretaker of a dangerous animal who violates subsections (A)(1), (3) or (4) is subject to the forfeiture provided for in the cash deposit schedule established under section 7.12.1.
- (3) An owner or caretaker of a prohibited dangerous animal who violates subsection (A)(2) is subject to a forfeiture of not less than \$250.00 nor more than \$500.00 per day.
- (4) An owner or caretaker of a dangerous or prohibited dangerous animal who violates any other provision of this ordinance is subject to a forfeiture of not less than \$100.00 nor more than \$250.00 per day.

- (L) Every day that a violation of this ordinance continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this ordinance shall pay all expenses including shelter, food, handling, veterinary care and expert testimony fees necessitated by enforcement of this ordinance.
- (M) **Exemptions.** The provisions of this ordinance regarding dangerous animals shall not apply to animals owned by law enforcement agencies and used for law enforcement purposes.

7.1.8 IMPOUNDMENT OF ANIMALS.

(A) **Animal Control Agency.**

- (1) The Village may contract with or enter into an agreement with such person, persons, organization or corporation to provide for the operation of an animal shelter, impoundment of stray animals, confinement of certain animals, disposition of impoundment animals and for assisting in the administration of rabies vaccination programs.
- (2) The Village does hereby delegate any such animal control agency the authority to act pursuant to the provisions of this Section.

- (B) **Impounding of Animals.** In addition to any penalty hereinafter provided for a violation or this Chapter, any police officer, humane officer or animal control officer may impound any dog or other animal which habitually pursues any vehicle upon any street, alley or highway of this Village, assaults or attacks any person, is at large within the Village, habitually barks, cries or howls, kills, wounds or worries any domestic or wild animal or is infected with rabies. In order for any animal to be impounded, the impounding office must see or hear the violation of this Section or have in his possession a signed statement of a complaining witness alleging the facts regarding the violation.

- (C) **Claiming Animal; Disposal of Unclaimed Animal.** After seizure of animals under this Section by a law enforcement officer, humane officer or animal control officer, the animal shall be impounded pursuant to the Society's policies. In the event an animal is retained in Village custody, the officer shall notify the owner, personally or through the U.S. Mail, if such owner be known to the officer or can be ascertained with reasonable effort, but if such owner be unknown or unascertainable, the officer shall publish in the Village, giving a description of the animal, stating where it is impounded and the conditions of its release, after the officer has taken such animal into his possession. If within seven (7) days after such notice the owner does not claim such animal, the officer may dispose of the animal in a proper and humane manner; provided, if an animal before being impounded has bitten a person, the animal shall be retained in the Animal Shelter for ten (10) days for observation purposes. Within such times, the owner may reclaim the animal upon payment of impoundment fees, such fees to be established by resolution of the Village Board. No animal shall be released from the pound without being properly licensed if so required by state law or Village Ordinance.
- (D) **Sale of Impounded Animals.** If the owner doesn't reclaim the animal within six (6) days, the poundmaster shall sell pursuant to Sec. 175.54, Wis Stats.
- (E) **Village Not Liable for Impounding Animals.** The Village and/or its animal control agency shall not be liable for the death of any animal which has been impounded or disposed of pursuant to this Section.

7.1.9 DUTY OF OWNER IN CASE OF DOG OR ANIMAL BITE.

Every owner or person harboring or keeping a dog or animal who knows that such dog or other animal has bitten any person shall immediately report such fact to the Police Department and shall keep such dog or animal confined for not less than ten (10) days or such period of time as the Police Department shall direct. The owner or keeper of any such dog or animal shall surrender the dog or animal to a law enforcement or humane officer upon demand for examination.

7.1.10 ANIMAL FECES.

The owner or person in charge of any dog or other animal shall not permit solid fecal matter of such animal to deposit on any street, alley or other public or private property, unless such matter is immediately removed therefrom by said owner or person in charge. This Section shall not apply to a person who is visually or physically handicapped.

7.1.11 INJURY TO PROPERTY BY ANIMALS.

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

7.1.12 BARKING DOGS.

It shall be unlawful for any person knowingly to keep or harbor any dog which habitually barks, howls or yelps, to the great discomfort of the peace and quiet of the neighborhood or in such manner as to materially disturb or annoy persons in the neighborhood who are of ordinary sensibilities. Such dogs are hereby declared to be a public nuisance. A dog considered to be in violation of this Section when two (2) formal, written complaints are filed with the Police Department within a four (4) week period.

See section 7.1.6

7.1.13 PROHIBITED AND PROTECTED ANIMALS, FOWL, REPTILES AND INSECTS.

- (A) **Possession and Sale of Protected Animals.** It shall be unlawful for any person, firm or corporation to possess with intent to sell or offer for sale, or buy or attempt to buy, within the Village other than native animals.
- (B) **Compliance with Federal Regulations.** It shall be unlawful for any person, firm or corporation to buy, sell or offer for sale a native or foreign species or subspecies of mammal, bird, amphibian or reptile, or the dead body or parts thereof, which appears on the endangered species list designated by the United State Secretary of the Interior and published in the Code of Federal Regulations pursuant to the Endangered Species Act of 1969 (Public Law 135, 91st Congress).

- (C) **Regulating the Importation of Certain Birds.** No person, firm or corporation shall import or cause to be imported into this Village any part of the plumage, skin or dead body of any species of hawk, owl or eagle. This paragraph shall not be construed to forbid or restrict the importation or use of the plumage, skin, body or any part thereof legally collected for use by the American Indians for ceremonial purposes or in the preservation of their tribal customs and heritage.
- (E) **Exception.** The provisions of Subsection (a) above shall not be deemed to prevent the lawful importation, possession, purchase or sale of any species by any public agency, institute of higher learning, persons holding federal permits, or by a person holding a Scientific Collectors Permit issued by the Secretary of the Department of Natural Resources of the state, or to any person or organization licensed to present a circus.
- (F) **Wild Animal; Prohibition on Keeping.** It shall be unlawful for any person to keep, maintain or have in his possession or under his control within the Village any poisonous reptile or any other dangerous or carnivorous wild animal, insect or reptile, any vicious or dangerous domesticated animal or any other animal or reptile of wild, vicious or dangerous propensities.
- (G) **Exceptions; Pet Shops.** The prohibitions of Subsection (c) above shall not apply, where creatures are in the care, custody or control of a veterinarian for treatment; agricultural fairs; shows or projects of the 4-H Clubs; a display for judging purposes; an itinerant or transient carnival, circus or other show; dog or cat shows or trials; public or private educational institutions; licensed pet shops; zoological gardens; if:
- (1) Their location conforms to the provisions of the zoning ordinance of the Village.
 - (2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.
 - (3) Animals are maintained in quarters so constructed as to prevent their escape.
 - (4) No person lives or resides within one hundred (100) feet of the quarters in which the animals are kept.
 - (5) Facility is inspected by the Wisconsin Department of Agriculture.

7.1.14 SALE OF RABBITS, DUCKLINGS, CHICKS OR ARTIFICIALLY COLORED ANIMALS.

- (A) No person may sell, offer for sale, raffle, give as a prize or premium, use as an advertising device or display living chicks, ducklings, other fowl or rabbits that have been dyed or otherwise colored artificially.
- (B) No person may sell, offer for sale, barter or give away living chicks, ducklings or other fowl without providing proper brooder facilities for the care of such chicks, ducklings or other fowl during the time they are in such person's care, custody or control.
- (C) No retailer, as defined in Sec. 100.30(2)(g), Wis. Stats., may sell, offer for sale, barter or give away living baby rabbits, baby chicks, ducklings or other fowl under two (2) months of age, in any quantity less than six (6), unless the purpose of selling these animals is for agricultural, wildlife or scientific purposes.

State Law Reference: Sec. 948.11, Wis. Stats.

7.1.15 PROVIDING PROPER FOOD AND DRINK TO CONFINED ANIMALS.

- (A) No person owning or responsible for confining or impounding an animal may refuse or neglect to supply the animal with a sufficient supply of food and water as prescribed in this Section.
- (B) The food shall be sufficient to maintain all animals in good health.
- (C) If potable water is not accessible to the animals at all times, it shall be provided daily and in sufficient quantity for the health of the animal.

State Law Reference: Sec. 948.13, Wis. Stats.

7.1.16 PROVIDING PROPER SHELTER

- (A) Proper Shelter. No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter as prescribed in this Section. In the case of farm animals, nothing in this Section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices in the particular county where the animal or shelter is located.
- (B) **Indoor Standards.** Minimum indoor standards of shelter shall include:
 - (1) Ambient Temperatures. The ambient temperature shall be compatible with the health of the animal.
 - (2) Ventilation. Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.
- (C) **Outdoor Standards.** Minimum outdoor of shelter shall include:
 - (1) Shelter from Sunlight. When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, “caged” does not include farm fencing used to confine farm animals.
 - (2) Shelter from Inclement Weather.

- (a) Animals generally. Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.
 - (b) Dogs. If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size to accommodate the dog shall be provided.
- (D) **Space Standards.** Minimum space requirements for both indoor and outdoor enclosures shall include:
 - (1) Structural Strength. The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.
 - (2) Space Requirements. Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.
- (E) **Sanitation Standards.** Minimum standards of sanitation for both indoor and outdoor enclosures shall include periodic cleaning to remove excreta and other waste materials, dirt and trash so as to minimize health hazards.

State Law Reference: Sec. 948.14, Wis. Stats.

7.1.17 NEGLECTED OR ABANDONED ANIMALS.

- (A) **Neglected or Abandoned Animals.**
 - (1) No person may abandon any animal.
 - (2) Any law enforcement officer may remove, shelter and care for an animal found to be cruelly exposed to the weather, starved or denied adequate water, neglected, abandoned or otherwise treated in a cruel manner and may deliver such animal to another person to be sheltered, cared for and given medical attention, if necessary. In all cases the owner, if known, shall be immediately notified and such officer, or other person, having possession of the animal shall have a lien thereon for its care, keeping and medical attention and the expense of notice.

- (3) If the owner or custodian is unknown and cannot, with reasonable effort, be ascertained or does not, within five (5) days after notice, redeem the animal by paying the expenses incurred, it may be treated as a stray and dealt with as such.
- (4) Whenever in the opinion of any such officer an animal is hopelessly injured or diseased so as to be beyond the probability of recovery, it shall be lawful for such officer to kill such animal and the owner thereof shall not recover damages for killing of such animal unless he shall prove that such killing was unwarranted.
- (5) Section 948.16, Investigation of Cruelty Complaints, and Section 948.17, Wis. Stats., Expenses of Investigation, are hereby adopted by reference and incorporated here as if fully set forth.
- (6) Injured Animals. No person who owns, harbors or keeps any animal shall fail to provide proper medical attention to such animal when and if such animal becomes sick or injured. In the event the owner of such animal cannot be located, the Village or any animal control agency with whom the Village has an agreement or contract shall have the authority to take custody of such animal for the purpose of providing medical treatment, and the owner thereof shall reimburse the person or organization for the costs of such treatment.

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

7.1.18 CRUELTY TO ANIMALS PROHIBITED.

- (A) **Acts of Cruelty Prohibited.** No person except a police officer or health or humane officer in the pursuit of his duties shall, within the Village, shoot or kill or commit an act of cruelty to any animal.
- (B) **Leading Animal From Motor Vehicle.** No person shall lead any animal upon a Village street from a motor vehicle or from a trailer or semi-trailer drawn by a motor vehicle.

- (C) **Use of Poisonous and Controlled Substances.** No person may expose any pet animal owned by another to any known poisonous substance or controlled substance listed in Sec. 161.14, Wis. Stats., whether mixed with meat or other food or not, where it is reasonable to anticipate the substance may be eaten by such animal or for the purpose of harming the animal. This subsection shall not apply to poison used on one's own premises and designed for the purpose of rodent and pest extermination, nor the use of a controlled substance used in accepted veterinarian practice or in research by persons or organizations regularly engaged in such research.
- (D) **Use of Certain Devices Prohibited.** No person may directly or indirectly, or by aiding, abetting or permitting the doing thereof either put, place, fasten, use or fix upon or to any animal used or readied for use for a work purpose or for use in an exhibition, competition, rodeo, circus or other performance any of the following devices: a bristle bur, tack bur or like device; or a poling device used to train a horse to jump which is charged with electricity or to which have been affixed nails, tacks or other sharp points.
- (E) **Shooting at Caged or Staked Animals.** No person may instigate, promote, aid or abet as a principal, agent, employee, participant or spectator, or participate in the earnings from or intentionally maintain or allow any place to be used for the shooting, killing or wounding with a firearm or any deadly weapon any animal that is tied, staked out, caged or otherwise intentionally confined in a man-made enclosure, regardless of size.

7.1.19 DOG-NAPPING.

No person may take the dog of another from one place to another without the owner's consent or cause such a dog to be confined or carried out of the Village or held for any purpose without the owner's consent. This section does not apply to law enforcement officers or humane society agents engaged in the exercise of their official duties, or as otherwise permitted herein.

7.1.20 VEHICLE ACCIDENTS.

The operator of any vehicle involved in an accident resulting in injury to or death of a dog or other animal which appears to be a pet shall immediately notify the Police Department or an animal control agency whose jurisdiction extends into the Village.

7.1.21 LIMITATION ON NUMBER OF DOGS.

- (A) The keeping of a large number of dogs within the Village for a considerable period of time detracts from and, in many instances, is detrimental to, healthful and comfortable life in such areas. The keeping of a large number of dogs is, therefore, declared a public nuisance.
- (B) **Definitions.**
- (1) Dog. A dog means any canine, regardless of age or sex.
 - (2) Residential Lot. A residential lot means a parcel of land zoned as residential, occupied or to be occupied by a dwelling, platted or un-platted, and under common ownership. For the purpose of this Section, any vacant parcel or parcels adjoining a dwelling and under the same ownership shall constitute one (1) lot.
- (C) **Number Limited.**
- (1) No family shall own, harbor or keep in its possession more than three (3) dogs on any residentially zoned lot, except that a litter of pups or a portion of a litter may be kept for not more than eight (8) weeks from birth. If more than one (1) family resides on a residential lot, then only a total of three (3) dogs shall be allowed on the residential lot. For the purposes of this Section, the term “family” shall be defined as one (1) or more persons.
 - (2) The above requirement may be waived for dogs when, a kennel license has been issued by the Village. Such application for shall first be made to the Village Administrator.

7.1.22 KEEPING BEES.

- (A) It shall be unlawful for any person to establish or maintain any hive, stand or box where bees are kept or keep any bees in or upon any premises not agricultural within the corporate limits of the Village unless the bees are kept in accordance with the following provisions:
- (1) A conditional use permit, following notice and hearing, pursuant to the Village Zoning Code shall first be obtained.
 - (2) The bees and equipment shall be kept in accordance with the provisions of the State Statutes.

7.1.23 PENALTIES.

- (A) Accepts as otherwise set forth herein, any person violating this section shall be subject to a forfeiture of not less than One Hundred Fifty Dollars (\$150.00) and not more than Five Hundred (\$500.00). This section shall also permit the Village Attorney to apply to the court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating any aspect of this Ordinance.

- (1) An owner who refuses to comply with an order issued under Section 7.1.5 to deliver an animal to an officer, isolation facility or veterinarian or who does not comply with the conditions of an order that an animal be quarantined shall be fined not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) or imprisoned not more than sixty (60) days or both.

ARTICLE 2
Fermented Malt Beverages and Intoxicating Liquor

- 7.2.1 State Statutes Adopted
- 7.2.2 Definitions
- 7.2.3 License Required
- 7.2.4 Classes of Licenses
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- 7.2.24 Issuance or Denial of Operator’s License
- 7.2.25 Training Course

7.2.1 STATE STATUTES ADOPTED.

The provisions of Chapter 125 of the Wisconsin Statutes, relating to the sale of intoxicating liquor and fermented malt beverages, except provisions therein relating to penalties to be imposed, are hereby adopted by reference and made a part of this Chapter as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this Chapter. Any future amendment, revisions or modifications of the statutes incorporated herein are intended to be made a part of this Chapter in order to secure, uniform statewide regulation of alcohol beverage control. State Law Reference: Chapter 125, Wisconsin Statutes.

7.2.2 DEFINITIONS

As used in this Chapter the terms “Alcoholic Beverages,” “Intoxicating Liquors,” “Principal Business,” “Legal Drinking Age”, “Premises,” “Sell,” “Restaurant,” “Club,” “Retailer,” “Person,” “Fermented Malt Beverages,” “Wholesalers,” “Retailers,” “Operators,” and “Non-Intoxicating Beverages” shall have the meaning given them by Chapter 125 Wisconsin Statutes.

7.2.3 LICENSE REQUIRED

No person, firm or corporation shall vend, sell, deal or traffic in or have in his possession with intent to vend, sell, deal or traffic in or, for the purposes of evading any law or ordinance, give away any intoxicating liquor or fermented malt beverage in any quantity whatever, or cause the same to be done, without having procured a license as provided in this Chapter nor without complying with all the provisions of this Chapter, and all statutes and regulations applicable thereto, except as provided by Sections 125.16, 125.27, 125.28 and 125.51 of the Wisconsin Statutes.

7.2.4 CLASSES OF LICENSES.

- (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 premises so licensed.

- (B) **Retail “Class B” Intoxicating Liquor License.** A retail “Class B” intoxicating liquor license, when issued by the Village Administrator under authority of the Village Board, shall permit its holder to sell, deal and traffic in intoxicating liquors to be consumed by the glass only on the premises so licensed and in the original package or container in multiples not to exceed four (4) liters at any one (1) 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, shall entitle the holder thereof 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 1st. The license shall expire on the following June 30th.
- (D) **Class “B” Fermented Malt Beverage Retailer’s License.**
- (1) License. A Class “B” fermented malt beverage retailer’s license, when issued by the Village Administrator under the authority of the Village Board, shall entitle the holder thereof 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 may also sell beverages containing less than one-half (1/2) of a per centum by volume, without obtaining a special license to sell such beverages. Such license may be issued after July 1st. The license shall expire on the following June 30th.
- (2) Application. Class “B” licenses may be issued to any person qualified under Sec. 125.04(5), Wis. Stats. Such licenses may not be issued to any person acting as agent for or in the employ of another except that this restriction does not apply to a hotel or restaurant which is not a 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 (6) months before the date of 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 Chapter. Except as provided in Sec. 125.31, Wis. Stats., Class “B” licenses may not be issued to brewers or fermented malt beverages wholesales.

(E) **Temporary Class “B” Fermented Malt Beverage License.**

- (1) License. As provided in Sec. 125.26(1) and (6), Wis. Stats., temporary Class “B” fermented malt beverage licenses may be issued to bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six (6) months before the date of 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 dates as approved by the Village Board.

- (2) Application. Application for such license shall be signed by the president or corresponding officer of the society or association making such application and shall be filed with 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 thereof, be subject to a forfeiture of Two Hundred Dollars (\$200.00) and will be ineligible to apply for a temporary Class “B” license for one (1) year. The license shall specify the hours and dates of license validity. The application shall be filed a minimum of fifteen (15) days prior to the meeting of the Village Board at which the application will be considered for events of more than three (3) consecutive days. If the application is for a license to be used in a Village park, the applicant shall specify the main point of sale facility.

(F) **Temporary Class “B” Wine License.**

- (1) License. Notwithstanding Sec. 125.68(3), Wis. Stats., temporary Class “B” Licenses may be issued to bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six (6) months before the date of application and to posts of veterans’ organizations authorizing the sale of wine containing not more than six percent (6%) alcohol by volume in an original package, container or bottle or by the glass if the wine is dispensed directly from an original package, container or bottle 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. No fee may be charged to a person who, at the same time, applies for a temporary Class “B” beer license under Sec. 125.26(6), Wis. Stats., 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 (6%) 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 (6%) alcohol by volume from the stands while the fair is being held.
- (2) Application. Application for such license shall be signed by the president or Corresponding officer of the society or association making such application and shall be filed with 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 thereof, be subject to a forfeiture of Two Hundred Dollars (\$200.00) and will be ineligible to apply for a temporary Class “B” wine license for one (1) year. The license shall specify the hours and dates of license validity. The application shall be filed a minimum of fifteen (15) days prior to the meeting of the Village Board at which the application will be considered for events of more than three (3) consecutive days. If the application is for a license to be used in a Village park, the applicant shall specify the main point of sale facility.

- (G) **Wholesaler License.** A wholesaler’s fermented malt beverage license, when issued by the Village Administrator under authority of the Village Board, shall entitle the holder thereof 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 said wholesale.

Cross Reference: Section 7.2.17

7.2.5 LICENSE FEES.

There shall be the following classes of licenses which, when issued by the Village Administrator under the authority of the Village Board after payment of the license fee and publication costs hereinafter specified shall permit the holder to sell, deal and traffic in intoxicating liquors or fermented malt beverages as provided in Section 7.2.4 of this Code of Ordinances and Chapter 125, Wis. Stats.

- (A) **Class “A” Fermented Malt Beverages Retailer’s License.** The annual fee for this license shall be as established in the Schedule of Village License Fees. The fee for a license for less than twelve (12) months shall be prorated according to the number of months or fraction thereof for which the license is issued.
- (B) **Class “B” Fermented Malt Beverage License.** The annual fee for this license shall be as established in the Schedule of Village License Fees. This license may be issued at any time for six (6) months in any calendar year, for which fifty percent (50%) of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued.
- (C) **Temporary Class “B” Fermented Malt Beverage License.** The fee for this license shall be as established in the Schedule of Village License Fees per event.
- (D) **Temporary Class “B” Wine License.** The fee for this license shall be as established in the Schedule of Village License Fees per event. However, there shall be no fee if the Temporary Wine License is obtained along with a Temporary Fermented Malt Beverage License.

- (E) **Fermented Malt Beverage Wholesalers' License.** The annual fee for this license shall be as established in the Schedule of Village License Fees.
- (F) **Class "A" Intoxicating Liquor Retailer's License.** The annual fee for this license shall be as established in the Schedule of Village License Fees.
- (G) **Class "B" Intoxicating Liquor Retailer's License.** The annual fee for this license shall be as established in the Schedule of Village License Fees. This license may be issued at any time for six (6) months in any calendar year, for which fifty percent (50%) of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued.

7.2.6 APPLICATION FOR LICENSE.

- (A) **Contents.** Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on the form prescribed by the Wisconsin Department of Revenue and shall be sworn to by the applicant as provided by Sec. 887.01 to 887.04, Wis. Stats., and shall be filed with the Village Administrator not less than fifteen (15) days prior to the granting of such license. The premises shall be physically described to 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) **Corporations.** Such application shall be filed and sworn to by the applicant if an individual, by the president and secretary, of 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 Sec. 125.26, Wis. Stats., or temporary Class "B" picnic wine license under Sec. 125.51 (10), Wis. Stats. The application shall be published once in the official Village newspaper, and the costs of publication shall be paid by the applicant at the time the application is filed, as determined under Sec. 985.08, Wis. Stats.

- (D) **Amending Application.** Whenever anything occurs to change any fact set out in the application of any licensee, such licensee shall file with the Village a notice in writing of such change within ten (10) days after the occurrence thereof.

7.2.7 QUALIFICATIONS OF APPLICANTS AND PREMISES.

- (A) **Residence Requirements.** A retail Class “A” or Class “B” fermented malt beverage or Class “B” intoxicating liquor license shall be granted only to persons who are citizens of the United States and who have been residents of the State of Wisconsin continuously for at least ninety (90) days prior to the date of the application.
- (B) **Applicant to Have Malt Beverage 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 they has the right to possession of the premises described in the application for the license period, by lease or by deed.
- (D) **Age of Applicant.** 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 Sec. 125.04(a)1 and 4 and (b), Wis. Stats., unless the agent of the corporation appointed under Sec. 125.04(6) and the officers and directors of the corporation meet the qualifications of Sec. 125.04(a)1 and 3 and (b) and unless the agent of the corporation appointed under Sec. 125.04(6) meets the qualifications under Sec. 125.04(a)2. The requirement that the corporation meet the qualifications under Sec. 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 applications 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 person or 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 forty-eight (48) hours after such transfer of stock.
 - (3) Any license issued to a corporation shall meet the requirements established in Sec. 125.04 (5)(c), Wis. Stats.
- (F) **Sales Tax Qualifications.** All applicants for retail licenses shall provide proof, as required By Sec. 77.61(11), Wis. Stats., that they are in good standing for sales tax purposes (i.e., hold a seller's permit) before they may be issued a license.

7.2.8 INVESTIGATION.

The Village Administrator may notify the Chief of Police and the Fire Inspector of each new application, and these 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. These officials shall furnish to the Village Administrator in writing, who 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.

7.2.9 APPROVAL OF APPLICATIONS.

- (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 conforms to the sanitary, safety and health requirements of the State Building Code, and the regulations of the State Board of Health and local Board of Health applicable to restaurants. The premises must be properly lighted and ventilated, must be equipped with separate sanitary toilet and lavatory facilities equipped with running water for each sex and must conform to all Ordinances of the Village.

- (C) Consideration for the granting or denial of a license will be based on:
 - (1) Arrest and conviction record of the applicant, subject to the limitations imposed by Secs. 111.321, 111.322, and 111.335, Wis. Stats.;
 - (2) The financial responsibility of the applicant;
 - (3) The appropriateness of the location and the premises where the licensed business is to be conducted; and
 - (4) Generally, the applicant's fitness 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.

- (E) An application may also be denied based upon the demerit point system.

Cross Reference: Sec. 7.2.17

7.2.10 GRANTING OF LICENSE

- (A) Opportunity shall be given by the governing body 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 to the applicant a license, upon payment by the applicant of the license fee to the Village. The full license fee shall be charged for the whole year. The Fee for a license for less than 12 months shall be prorated according to the number of months or fraction thereof for which the license is issued.

- (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.

7.2.11 TRANSFER AND LAPSE OF LICENSE.

- (A) In accordance with the provisions of Sec. 125.04(12), Wis. Stats., a license shall be transferable from one premises to another if such 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. In the event of the sale of a business or business premises of the licensee, the purchaser of such business or business premises must apply to the Village for re-issuance of said license and the Village, as the licensing authority, shall in no way be bound to reissue said license to said subsequent purchaser.
- (B) Whenever the agent of a corporate holder of a license is for any reason replaced, the Licensee shall give the Village Administrator written notice of said replacement, the reasons therefor 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, said license shall cease to be in effect upon receipt by the Village Administrator of notice of disapproval of the successor agent by the Wisconsin 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 approved by the Village.

7.2.12 NUMBERING OF LICENSE.

All licenses shall be numbered in the order in which they are issued and shall state clearly the specific premises for which granted, the date of issuance, the fee paid and the name of the licensee. The Village Clerk shall affix to the license his affidavit as provided by Sec. 125.04 (4) of the Wisconsin Statutes.

7.2.13 POSTING LICENSES; DEFACEMENT.

- (A) Every person licensed in accordance with the provisions of this Chapter shall immediately post such license and keep the same posted while in force in a conspicuous place in the room or place where said beverages are drawn or removed for service or sale.
- (B) It shall be unlawful for any person to post such license or to be permitted to post it upon premises other than those mentioned in the application or knowingly to deface or destroy such license.

7.2.14 CONDITIONS OF LICENSE.

All retail Class "A", Class "B", "Class A" and "Class B" licenses granted hereunder shall be granted subject to the following conditions, and all other conditions of this Section, and subject to all other Ordinances and regulations of the Village applicable thereto.

- (A) **Consent to Entry.** Every applicant procuring a license thereby consents to the entry of police or other duly authorized representatives of the Village at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all things and articles there had in violation of Village Ordinances or state laws, and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.
- (B) **Employment of Minors.** No retail "Class B" or Class "B" licenses shall employ any minor person, as defined in the Wisconsin Statutes, but this shall not apply to hotels and restaurants. The licensee's immediate family who has attained the age of 18 shall be considered the holder of an operator's license.

- (C) **Licensed Operator on Premises.** There shall be upon premises operated under a Class A or Class B license, at all times, the licensee, members of the licensee's immediate family who have attained the age of 18, and/or some 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, 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 said premises at the time of such service.
- (D) **Health and Sanitation 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 Chapter. No "Class B" license shall be issued unless the premises to be licensed conform to such rules and regulations.
- (E) **Restrictions Near Schools, Hospitals, and Churches.** No retail Class "A", Class "B", "Class A" or "Class B" license shall be issued for premises, the main entrance of which is less than three hundred (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 premises licensed as such on June 30, 1947, nor shall it apply to any premises licensed as such prior to the occupation of real property within three hundred (300) feet thereof by any school building, hospital building or church building, or a restaurant located within (300) feet of a church, or school. This paragraph applies only to restaurants in which the sale of alcohol accounts for less than 50% of their gross receipts.
- (F) **Clubs.** No club shall sell or give away any intoxicating liquors except to bona fide members and guests invited by members.
- (G) **Gambling Prohibited.** Except as authorized by state law, no gambling or game of chance of any sort shall be permitted in any form upon any premises licensed under this Chapter or the laws of the State of Wisconsin.

- (H) **Licensee or Permittee Responsible for Acts of Employees.** A violation of this Chapter by a duly authorized agent or employee of a licensee or permittee under this Chapter shall constitute a violation by the licensee or permittee. Whenever any licensee or permittee under this Chapter shall violate any portion of this Chapter, proceedings may be instituted pursuant to Sec 125.12 Wis. Stats.

Annotation: See *Colonnade Catering Co112. 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.

7.2.15 CLOSING HOURS.

Closing hours shall be established in conformance with Sec. 125.32(3), Wis. Stats., and further restricted as follows:

(A) **Class “B” Licenses.**

- (1) 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 1st.
- (2) Hotels and restaurants, the principal business of which is the furnishing of food or lodging to patron, bowling alleys, indoor horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business but shall not sell liquor or malt beverage during the closing hours of Subsection (a)(1) above.

- (B) **Carryout Hours.** Between 9:00 p.m. and 6:00 a.m., no person may sell, remove, carry out or permit to be removed or carried out from any premises having a “Class A” or Class “A” license, fermented malt beverages or intoxicating liquor in original unopened packages, containers or bottles or for consumption away from the premises.

7.2.16 RESTRICTIONS ON TEMPORARY FERMENTED MALT BEVERAGE OR WINE LICENSES.

It shall be unlawful for any person or organization on a temporary basis to sell or offer to sell any alcohol beverage upon any Village owned property or privately owned property within the Village of Marathon, 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 Wisconsin Statutes and as 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 property or privately owned property may be authorized by the Village Board provided the following requirements are met:

- (A) **Compliance with Eligibility Standards.** The organization shall meet the eligibility Requirements of a bona fide club, association, lodge or society as set forth in Sec. 125.26 (6), Wis. Stats., and shall fully comply with the requirements of this Section and Section 11.4.
- (B) **Posting of Signs and Licenses.** All organizations issued a temporary license shall post in a conspicuous location at the main point of sale and at all remote points of sale a sufficient number of signs stating that no fermented malt beverage shall be served to any under-age person without proper identification.
- (C) **Fencing.** If necessary due to the physical characteristics of the site, the Village Board shall require that organizations install a double fence around the main point of sale to control ingress and egress and continually station a licensed operator, security guard or other competent person at the entrance for the purpose of checking age identification. Where possible, there shall be only one (1) point of ingress and egress. When required, the double fence shall be a minimum of four (4) feet high and a minimum of six (6) feet between fences. A single eight (8) foot chain link fence may be used to meet the fence requirement.
- (D) **Insurance.** The applicant for a temporary fermented malt beverage or wine license 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 of Marathon City its employees and agents as additional insured. The insurance shall include coverage for contractual liability of a minimum limits of \$1,000,000 combined single limits occurrence. The certificate of insurance shall provide 30 day written notice to the Village of cancelation, non-renewal, or material change in the policy.

- (E) **Permitted Cups Only.** Intoxicants will be sold only in non-glass containers.
- (F) **Additional Requirements.** In addition, requesting organizations shall comply with the following:
 - (1) 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. Such information shall be made part of the temporary Class “B” permit application.
 - (2) 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 of the fenced-in area and the exact location. 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. It shall contain adequate sanitary facilities to accommodate the size of the group.

Cross Reference: Section 11.4

7.2.17 REVOCATION AND SUSPENSION OF LICENSES; NON-RENEWAL.

- (A) **Procedure.** Whenever the holder of any license under this Chapter violates any portion of this Chapter or this code of ordinances or Chapter 125 Wis. Stats. proceeding for the revocation, suspension or non-renewal of such license may be instituted in the manner and under the procedure established by this Section 125.12 Wis. Stats.

(B) **Abandonment of Premises.** Any licensee holding a license to sell alcohol beverages who abandons such business shall forfeit any right or preference he may have to the holding of or renewal of such license. Abandonment shall be sufficient grounds for revocation of any alcohol beverage license. The lose of the licensed premises for at least six (6) months shall be prima facie evidence of the abandonment, unless extended by the Village Board. All persons issued a license to sell alcohol beverages in 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 such license for at least one hundred fifty (150) days during the terms of such license, unless such license is issued for a term of less than one hundred eighty (180) days, in which event this Subsection shall not apply.

(C) **Point Values for Alcohol Beverage Violations and Revocations and Suspensions.**

(1) **Purpose and definitions.**

- (a) The purpose of this subsection is to administratively interpret those portions Article 2 of Title 7 relating to establishing an alcohol beverage demerit point system to assist in determining which license holders should be subject to suspension or revocation procedures.
- (b) The Public Health and Licensing Committee of the Village is the committee which reviews alcohol licenses.

(2) **Point Schedule.** The scale of demerit points is listed according to the type of alcohol beverage violation. This demerit point system is used to identify habitually troublesome license holders who have repeatedly violated state statutes or the Village Code of Ordinances, for the purpose of recommending suspension or revocation of their alcohol beverage license.

<u>Type of Violation</u>	<u>Point Value</u>
Sale or serve underage person 2-5 (50)>10 (100) 6-10(75)	1 = 25
Sale or serve intoxicated person	25
Underage person on premises	25
No-alcohol night violations	25
Failure to be licensed	50
Altering premises or changing location without permission	25
False statement on application	25
Transfer of license without permission	25
Failure to frame and post license	25
Conducting unlawful business	50
No licensed bartender	50
Sell fermented malt beverage after hours	50
Open after hours	25
Sell intoxicating liquor after hours	50
Leaving with open container	25
Adult entertainment without permit	50
Nude or semi-nude entertainer or employee visible outside	50

In construing the number of points to be assessed for an alleged violation, the “type of violation” which shall control.

(3) **Violations, How Calculated.** In determining the accumulated demerit points against a license within twelve (12) months, the Village shall use the date each violation was committed as the basis for the determination.

(4) **Suspension or Revocation of License.**

(a) The Public Health and Licensing Committee shall call before it for purposes of a revocation or suspension hearing all licensees who have accumulated 100 points in a twelve (12) month period as a result of court imposed convictions or who have had referred to its reports from the Village Attorney which, if believed, would result in 100 demerit points in twelve (12) months.

1. Formal expression of concern. In those instances in which a licensee has accumulated less than 100 demerit points as determined by the Public Health Licensing Committee, and additional violations on one date would result in the accumulation of at least 100 points but not more than 200 points, the Public Health and Licensing Committee shall call before it the licensee for purposes of a formal expression of concern. If the licensee appears, no discussion of the alleged facts underlying the assessment of demerit points shall be permitted unless the licensee requests such discussion but only if the licensee is advised that any statements made by the licensee and/or her/his representatives regarding the alleged facts may be considered by the Public Health and Licensing Committee in any subsequent suspension/revocation hearing which may result from the alleged violations which are the subject of the formal expression of concern.

If the licensee fails to appear after service of the notice to appear, the matter shall be scheduled for a suspension/revocation hearing. Service of the notice to appear shall be by first class mail sent to the agent, if the licensee is a corporation or a limited liability company, to the licensee if an individual, or to any partner if the licensee is a partnership. If the notice is returned by the Post Office as undeliverable, the notice may be left with any employee found on the licensed establishment at least 24 hours before the date and time of the scheduled appearance before the Public Health and Licensing Committee. A formal expression of concern in lieu of the assessment of demerit points may only occur once within a one (1) year period.

2. Any alcohol beverage violation not enumerated herein may still subject the license holder to suspension or revocation of the license pursuant to Wis. Stat. 125.12.

3. Any suspension or revocation longer than ten (10) days shall result in a license eligible for immediate reissuance.

(b) If the demerit point accumulation, calculated from the date of violation, meets or exceeds: 150 points in a 12 month period, the suspension shall be for three (3) business days; 175 points in a 12 month period, the suspension shall be for seven (7) business days; 200 points in a 12 month period, the suspension shall be for twelve (12) months. If the license(s) is revoked, no other license shall be granted to such licensee for a period of twelve (12) months from the date of revocation. The period of suspension shall be the number of days the establishment is regularly open for business.

(c) Pursuant to Wis. Stats. 125.12 procedure, the license or permit issued under this chapter to a person for:

1. Bartending, shall be suspended for fourteen (14) days, if the committee finds that the person committed a violation within six (6) months after committing one previous violation:

2. Bartending, shall be suspended for twelve (12) months, if the committee finds that the person committed a violation with twelve (12) months after committing two (2) other violations.

3. Operating, shall be suspended for three (3) days, if the committee finds that the person committed a violation within six (6) months after committing one (1) previous violation.
- (d) Only once in each twelve (12) month period, for any violation of 50 points, 24 points can be earned back if the tavern owner at his/her expense sends the offending bartender to responsible beverage course and the bartender completes the course; however, upon appeal, the committee may reduce points after a public hearing before the Public Health and Licensing Committee. The procedure to be used for suspension or revocation shall be that found in Wisconsin Statute 125.12.
- (e) Penalties. In this section, “violation” means a violation of this subsection if the violation results in an imposition of a forfeiture or a conviction. For purposes of determining previous violations, the period shall be measured from the dates of violations that resulted in an imposition of forfeiture or a conviction. For the purpose of determining whether or not a previous violation has occurred, if more than one violation occurs at the same time, all those violations shall be counted as one violation.
- (5) **Effect of Revocation of License.** Pursuant to Sec. 125.12 (2)(c) Wis. Stats. Is fully set forth herein.

7.2.18 NON-ALCOHOL EVENTS FOR UNDERAGE PERSONS ON LICENSED PREMISES.

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

- (A) The licensee or agent of a corporate licensee shall notify the Police Department at least forty-eight (48) hours in advance of the date of any event at which underage persons will be present on the licensed premises. Each such non-alcohol event notice shall specify the date(s) on which the event is to occur and the time(s) 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 Department. After a non-alcohol event notice has been given, the licensee may cancel an event(s) only by giving the notice to the 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.
- (B) During the period of any non-alcohol 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 alcohol 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 by the Department to a requesting licensee.
- (C) Once a non-alcohol event has commenced, no alcohol 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.
- (D) During the period of any non-alcohol event all alcohol 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 directed 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 alcohol beverages ("speed guns") shall be either disconnected, disabled or made inoperable.

7.2.19 REQUIREMENTS FOR OUTDOOR CONSUMPTION AT CLASS “B” PREMISES.

(A) **Required for Outdoor Consumption.** No licensee shall permit the consumption of the alcohol beverages on any part of the licensed premises not enclosed within the building, except as allowed in Section (B) and (E) below. No person shall consume or have in his or her possession alcohol beverages on any unenclosed part of a licensed outdoor premise which is not described in the license application.

(B) **Limitations of Outdoor Consumption in the Annual License Premise.**

(1) No outdoor consumption is allowed within fifty (50) feet of a structure used for residential purposes, except residential uses located in the same structure as the licensed premises.

(2) No outdoor consumption is allowed within five (5) feet of any public right -away.

(3) Each licensed applicant shall accurately describe the area intended for outdoor consumption and shall indicate the nature of fencing, signage or other measures intended to provide control over the licensed outdoor premise. Such proposed measures shall be reviewed by the Village Police Department, who will make any recommended changes to the applicant. The Village Board shall make the final determination of the adequacy of these control measures.

(4) No amplified sound or music is permitted outside the enclosed (building) premises. Amplified sound or music is not permitted in the licensed outdoor area.

(C) **Adjoining Property Owners.**

(1) All property owners within one hundred (100) feet of the licensed outdoor area shall be notified by the applicant of the application for a licensed outdoor consumption area.

(2) If the applicant is using adjoining property which is not owned or leased by the licensed holder, the owner of such property must provide a signed document acknowledging such use and address liability regarding the use of such property for outdoor consumption of alcoholic beverages.

- (D) **State Statutes Enforced.** Every licensed applicant or persons under this section shall comply and enforce all provisions of Ch. 125, Wis. State Stats., applicable to Class “B” license premises, except insofar, as such provisions are clearly inapplicable. Violation of the provisions of Ch. 125, Wis. Stats., shall be grounds for immediate revocation of the outdoor consumption area and subject to penalties under Wis. State Statute 125.
- (E) **Required for Beer Gardens.** No person shall possess, sell or offer for sale any alcohol beverages in any parking lot or any other open area for any special event unless a temporary beer garden is established in accordance with the following provisions. A special event for the purposes of this Ordinance shall be defined as an event for which a special class “B” license is obtained or an event not within the ordinary course of licensee’s business including, but not limited to, promotions days, celebrations and festivals open to the general public and other similar events.
- (F) **Special Class “B” Licenses within Parks.** All special Class “B” licenses issued for any Village park shall require the applicant to comply with the following provisions:
- (1) When required by subsection (E) above, the applicant shall either:
 - (a) Erect a fenced beer garden defined as an enclosed area with specially marked entrances and exits and consisting of a fence or wall not less than five (5) feet in height or with two (2) temporary fences not less than three and one-half (3 ½) feet in height and spaced six (6) feet apart. No fence which defines a temporary beer garden area shall be located closer than five (5) feet away from the adjacent public right-of-way. Consumption of alcohol beverages shall be restricted to that area within the confines of the beer garden; or
 - (b) Obtain a specific waiver of the fencing requirements contained within Section (F)(1)(a) above from the Village Board. The request shall be submitted upon a form provided by the Village Clerk and shall be filed at the time of license application. The request shall specify what safeguards the licensee will take to prevent abuse in the dispersion and consumption of alcohol beverages. The Board may grant or deny, in whole or in part, or may grant subject to conditions that waiver requested.
- The application for waiver shall be received by the Village Clerk at least sixty (60) days prior to the event in order to be considered by the Village Board.

- (2) The sponsoring organization may prohibit beverage carry-ins of any type, limiting consumption to those beverages sold within the confines of the beer garden or part of the park as specified in the application. The sponsoring organization shall place signs at all entrances to the beer garden or part of the park specified and at such other locations as specified by the Police Department as necessary to give persons reasonable notice of this prohibition. Such signs shall be a minimum of 8"x11", bright yellow in color and shall specify "*No Carry-in Beverages Allowed within this Area Pursuant to Section 7.2.19 (f) of the Village Code of Ordinances*" in letters at least ½ inch high. No person shall bring into or possess within the areas designated any carry-in beverages.
 - (3) The decision as to specific location, fencing, size and number of beer gardens shall be made by and at the discretion of the Village Board, except that the fence which defines any beer garden shall be located no closer than five (5) feet away from any public right-of-way.
 - (4) The cost of procuring, installing, maintaining, and disassembling any of the beer garden fence, park perimeter fence or similar demarcation device shall be borne by the licensee or his designated agent. Restitution or remuneration or damage to Village property shall be at the sole expense of the application.
 - (5) Sales of beer in any park shall be prohibited after 9:00 p.m. except in those instances wherein the Village Board by resolution, grants an extension of hours.
- (G) **Other Special Class "B" Licenses.** All special Class "B" licenses not issued for use in a Village municipal park shall require the applicant to comply with the following provisions:
- (1) When required by subsection (E) above, the applicant shall either:
 - (a) Erect a fenced beer garden defined as an enclosed area with specially marked entrances and exits and consisting of a fence or wall not less than five (5) feet in height or with two (2) temporary fences not less than three and one-half (3 ½) feet in height and spaced six (6) feet apart. No fence which defines a temporary beer garden area shall be located closer than five (5) feet away from the adjacent public right-of-way. Consumption of alcohol beverages shall be restricted to that area within the confines of the beer garden; or

- (b) Obtain a specific waiver of the fencing requirements contained within Section (F)(1)(a) above from the Village Board. The request shall be submitted upon a form provided by the Village Clerk and shall be filed at the time of license application. The request shall specify what safeguards the licensee will take to prevent abuse in the dispersion and consumption of alcohol beverages. The Board may grant or deny, in whole or in part, or may grant subject to conditions that waiver requested.

The application for waiver shall be received by the Village Clerk at least sixty (60) days prior to the event in order to be considered by the Village Board.

- (c) Licenses issued for property owned and operated by Marathon County shall be governed by the requirements set forth by Marathon County.
- (2) Amplified sound or music shall not be permitted after 10:00 p.m. Sunday through Thursday and after 11:00 p.m. Friday and Saturday evenings. This section shall not be construed to limit the authority of the Police Department to respond to complaints and to take any appropriate action in response thereto.

(H) **All Other Licenses.** All special Class “B” licenses not issued for use in a Village municipal park shall require the applicant to comply with the following provisions:

- (1) When required by subsection (E) above, the applicant shall either:
 - (a) Erect a fenced beer garden defined as an enclosed area with specially marked entrances and exits and consisting of a fence or wall not less than five (5) feet in height or with two (2) temporary fences not less than three and one-half (3 ½) feet in height and spaced six (6) feet apart. No fence which defines a temporary beer garden area shall be located closer than five (5) feet away from the adjacent public right-of-way. Consumption of alcohol beverages shall be restricted to that area within the confines of the beer garden; or

- (b) Obtain a specific waiver of the fencing requirements contained within Section (F)(1)a above from the Village Board. The request shall be submitted upon a form provided by the Village Clerk and shall be filed at the time of license application. The request shall specify what safeguards the licensee will take to prevent abuse in the dispersion and consumption of alcohol beverages. The Board may grant or deny, in whole or in part, or may grant subject to conditions that waiver requested.

The application for waiver shall be received by the Village Clerk at least sixty (60) days prior to the event in order to be considered by the Village Board.

- (2) Amplified sound or music shall not be permitted after 10:00 p.m. Sunday through Thursday and after 11:00 p.m. Friday and Saturday evenings. This section shall not be construed to limit the authority of the Police Department to respond to complaints and to take any appropriate action in response thereto.

7.2.20 OPERATOR’S LICENSE REQUIRED.

(A) **Operator’s License; Class “A” or Class “B” Premises.** Except as provided under Sec. 125.32(3)(b) and Sec. 125.07(3)(a) 10, Wis. Stats., no premises operated under a Class “A” or Class “B” license or permit may be open for business unless there is upon the premises the licensee or permittee, the agent named in the license or permit if the licensee or permittee is a corporation, or some person who has an operator’s license and who is responsible for the acts of all persons serving any fermented malt beverages to customers. An operator’s license issued in respect to a vessel under Sec. 125.27(2), Wis. Stats., is valid outside the municipality that issues it. For the purpose of this section, any person holding a manager’s license under Sec. 125.18, Wis. Stats., or any member of the licensee’s or permittee’s immediate family who has attained the age of eighteen (18), 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 or she has an operator’s license or is at least eighteen (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 the service.

(B) **Use by Another Prohibited.**

- (1) No person may allow another to use his or her Class “A” or Class “B” license or Permit to sell alcohol beverages.
- (2) The licensee or permittee of a person who violates Subsection (B)(1) above shall be revoked.

State Law Reference: Sec. 125.17 and 125.32, Wis. Stats.

7.2.21 PROCEDURE UPON APPLICATION.

(A) The Village Board may issue an operator’s license, which license shall be granted only upon application in writing on forms to be obtained from the Village Administrator only to persons eighteen (18) years of age or older. Operator’s licenses 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 regulations, ordinances and laws applicable thereto. 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 resided concerning the applicant's arrest and conviction record. Based upon such investigation, if the Chief of Police recommends denial, the Chief of Police shall provide, in writing, the reasons for such recommendation.

7.2.22 DURATION.

Licenses issued under the provisions of this Chapter shall be valid for a period of one (1) year and shall expire on the thirtieth (30th) day of June of each year.

7.2.23 OPERATOR'S LICENSEE FEE; PROVISIONAL LICENSE.

- (A) Fee. The fee for an operator's license or provisional license shall be as established in the Schedule of Village License Fees.
- (B) Provisional License. The Village Administrator may issue provisional operator's licenses in accordance with Sec. 125.17(5), Wis. Stats. The provisional operator's license shall expire sixty (60) days after its issuance or when an operator's license is issued to the holder, whichever is sooner. The Village Administrator, may upon receiving an application for a temporary provisional license, issue such a license without requiring the successful completion of the approved program as described herein. However, such temporary license shall be used only for the purpose of allowing such 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 who has had his operator's license revoked or suspended within the preceding twelve (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 provisional license issued if discovered that the holder of the license made a false statement on the application.

7.2.24 ISSUANCE OR DENIAL OF OPERATOR'S LICENSE

- (A) After the Village Board approves the granting of an operator's license, the Village Administrator shall issue the license. Such licenses shall be issued and numbered in the order they are approved 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, in writing, inform the applicant of the denial, the reasons therefore. Such notice must be sent by registered mail to, or personally served upon the applicant.
- (C) An applicant who is denied any license, may apply to Circuit Court pursuant to Sec. 125.12(2)(d), Wis. Stats., for review.
- (D) Consideration for the granting or denial of such license will be based on Sec. 125.04 Wis. Stats.

7.2.25 TRAINING COURSE.

- (A) Except as provided in Subsection (B) below, 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 unless the applicant fulfills one of the following requirements:
 - (1) The person is renewing an operator license.
 - (2) Within the past two (2) years, the person held a Class "A", Class "B", "Class A" or "Class B" license or permit or a manager's or operator's license.
 - (3) Within the past two (2) years, the person has completed such a training course.
- (B) The Village Board may issue a provisional operator's license to a person who is enrolled in a training course under Subsection (a) above and shall revoke that license if the applicant fails successfully to complete the course in which he or she enrolls.

ARTICLE 3
Cigarette License

7.3.1 Cigarette License

SEC. 7.3.1 CIGARETTE LICENSE.

- (A) **License Required.** No person, firm or corporation 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 wrappers, or any substitute therefor, without first obtaining a license as hereinafter provided.
- (B) **Application for license; Fee.** Every person, firm or corporation desiring a license under this Section shall file with the Village Administrator a written application therefor, stating the name of the person and the place for which such license is desired. Each license shall be filed by the Village Administrator and shall name the licensee and the place wherein he is authorized to conduct such business, and the same shall not be delivered until the applicant shall pay to the Village Administrator a license fee as established in the Schedule of Village License Fees.
- (C) **Issuance and Term of License.** Licenses for the sale, exchange, barter, disposition of, or giving away or keeping for sale of cigarette paper or cigarette wrappers or any substitute therefor shall be issued by the Village Administrator. Each license shall be issued on the first day of July in each year, or thereafter whenever applied for, and shall continue in force from date of issuance until the succeeding June 30th unless sooner revoked for any violation of this Section.

State Law Reference: Sec. 134.65, Wis. Stats.

ARTICLE 4
Direct Sellers

7.4.1	Registration Required
7.4.2	Definitions
7.4.3	Exemptions
7.4.4	Registration
7.4.5	Appeal
7.4.6	Regulation of Direct Sellers
7.4.7	Records
7.4.8	Revocation of Registration

7.4.1 REGISTRATION REQUIRED.

It shall be unlawful for any direct seller to engage in direct sales within the Village without being registered for that purpose as provided herein.

7.4.2 DEFINITIONS.

In this Chapter:

- (A) **Direct Seller** means any individual who, for him/herself, or for a partnership, association or corporation, sells goods, or takes sales orders for the later delivery of goods, at any location other than the permanent business place or residence of said 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.

- (B) **Permanent Merchant** means a direct seller who, for at least one (1) year prior to the consideration of the application of this Chapter to said merchant:
 - (1) Has continuously operated an established place of business in this Village; or
 - (2) Has continuously resided in this Village and now does business from his/her residence.
- (C) **Goods** shall include personal property of any kind and shall include goods provided incidental to services offered or sold.
- (D) **Charitable Organization** shall include any benevolent, philanthropic, patriotic or, person, partnership, association or corporation, or one purporting to be such, but shall not include religious organizations.
- (E) **Clerk** shall mean the Village Administrator or designee.
- (F) **Person** shall mean 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.

7.4.3 EXEMPTIONS.

The following shall be exempt from all provisions of this Chapter.

- (A) Any person delivering newspapers, fuel, or food product to regular customers on established routes;
- (B) Any person selling goods at wholesale to dealers in such goods;
- (C) Any person selling agricultural products which such person has grown;
- (D) Any permanent merchant or employee thereof who takes orders away from the established place of business for goods regularly offered for sale by such merchant within this county and who delivers such goods in their regular course of business.
- (E) Any person who has an established local 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, said person;

- (F) 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;
- (G) Any person selling or offering for sale a service unconnected with the sale or offering for sale of goods;
- (H) Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law;
- (I) Any employee, officer or agent of a charitable or civic organization, or local students, Who engage in direct sales for or on behalf of said organization, provided that, if requested, such organization can provide proof that such charitable organization is registered under Sec. 440.41 Wis. Stats., or which is exempt from that statute's registration requirements.
- (J) Any person who claims to be a permanent merchant, but against whom complaint has been made to the Village Clerk, that such person is a transient merchant, provided that there is submitted to the Village Clerk, proof that such person has leased for at least one (1) year, or purchased, the premises from which he/she is conducting business, or proof that such person has conducted such business in the Village for at least one (1) year prior to the date complaint was made.

7.4.4 REGISTRATION

- (A) Applicants for registration must complete and return to the Village Office a registration form furnished by the Village 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, firm, association or corporation that the direct seller represents or is employed by, or whose merchandise is being sold;

- (4) Temporary address and telephone number from which business will be conducted, if any;
 - (5) Nature of business to be conducted and a brief description of the goods offered and any services offered;
 - (6) Proposed method of delivery of goods, if applicable;
 - (7) Make, model and license number of any vehicle to be used by applicant in the conduct of his business;
 - (8) Last cities, villages, town, not to exceed three (3), where applicant conducted similar business just prior to making this registration;
 - (9) Place where applicant can be contacted for at least seven (7) days after leaving this Village;
 - (10) Statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's transient merchant business within the last five (5) years, the nature of the offense and the place of conviction.
- (B) Applicants shall present to the Village Office for examination: A driver's license or some other proof of identity as may be reasonably required.
- (C) Registration Fee.
- (1) At the time the registration is returned, a fee as prescribed in the Schedule of Village License Fees shall be paid to the Village Clerk to cover the cost of processing said registration. Each member of a group must file a separate registration form.
 - (2) Upon payment of said fee and the signing of said statement, the Village Clerk shall register the applicant as a direct seller and date the entry.

7.4.5 APPEAL.

Any person denied registration may appeal the denial through the appeal procedure provided by ordinance or resolution of the Village Board or, if none has been adopted, under the provisions of Sections 68.07 through 68.16, Wis. Stats.

7.4.6 REGULATION OF DIRECT SELLERS.

(A) Prohibited Practices.

- (1) A direct seller shall be prohibited from: calling at any dwelling or other place between the hours of 9:00 p.m. and 8:00 a.m. except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words “No Peddlers,” “No Solicitors” or words of similar meaning; calling at the rear door of any dwelling place; or 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. Said 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. Where sales are made from vehicles, all traffic and parking regulations shall be observed.
- (4) No direct seller shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a one hundred (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.

7.4.7 RECORDS.

The Chief of Police shall report to the Village all convictions for violation of this Chapter and the Village shall note any such violation on the record of the registrant convicted.

7.4.8 REVOCATION OF REGISTRATION.

- (A) Registration may be revoked by the Village Board after notice and hearing if the registrant made any material omission or materially inaccurate statement in the application for registration, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales, violated any provision of this Chapter or 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 served personally on the registrant at least seventy-two (72) hours prior to the time set for the hearing; such notice contain the time and place of hearing and a statement of the acts upon which the hearing will be based.

ARTICLE 5
Escorts and Escort Services

- 7.5.1 Definitions
- 7.5.2 Exemptions
- 7.5.3 License Required
- 7.5.4 Application for License
- 7.5.5 Standards for License Issuance
- 7.5.6 Renewal of License
- 7.5.7 Denial of Application
- 7.5.8 Suspension, Revocation, or Non-renewal
- 7.5.9 Responsibilities of the Operator
- 7.5.10 Registration of Employees
- 7.5.11 Penalties
- 7.5.12 Severability

7.5.1 Definitions.

For the purpose of this ordinance, certain terms shall have the meaning ascribed to them in this section, unless this context clearly indicates otherwise.

- (A) **Escort** means any person who, for a fee, commission, salary, hire, profit, payment or other monetary considerations accompanies or offers to accompany another person to or about social affairs, entertainment or places of entertainment or places of amusement or consorts with another person about any place of public resort or within any private quarters or agrees to privately model lingerie, perform a striptease or perform in a nude or semi-nude state for any person or *persons*
- (B) **Escort Service** means service provided by any person who, for a fee, commission, salary, hire, profit, payment or other monetary consideration, furnishes or offers to furnish names of persons who may accompany other persons to or about social affairs, entertainment or places of amusement, or who may consort with others about any place of public resort or within any private quarters or agrees to privately model lingerie, perform a striptease or perform in a nude or semi-nude state for another person or persons.
- (C) **Person** means any individual and is also extended and applied to associations, clubs, societies, firms, partnerships and bodies and politics and corporate.

7.5.2 Exemptions.

This section does not apply to businesses, agencies and persons licensed by the State of Wisconsin or the Village pursuant to a specific statute or ordinance, and employed by a business so licensed and which performs and escort or an escort service function as a service merely incidental to the primary function of such profession, employment or business and which do not hold themselves out to the public as an escort or an escort service.

7.5.3 License Required.

- (A) No escort shall operate or provide service in the Village without first obtaining an escort service license issued by the Village.
- (B) No person shall escort in the Village unless employed by an escort service licensed by the Village and properly registered pursuant to §7.5.3 (A).
- (C) Any person, partnership or corporation which desires to operate or provide services from more than one (1) location must have a license for each location.
- (D) No license or interest in a license may be transferred to any person, partnership or corporation.
- (E) No person may advertise indicating that an escort service is available in the Village of Marathon City unless that service possesses a valid license. No escort service may in any manner advertise its services as licensed by the Village.

7.5.4 Application for License.

- (A) Any person desiring to secure a license under this article shall make applications to the Village Clerk.
- (B) The application for a license shall be a form approved by the Village Clerk. An applicant for a license (which shall include each partner and limited partner of a partnership applicant, each officer and director of a corporate applicant, each stockholder holding ten percent (10%) or more of the stock or beneficial ownership and every other person who is interested directly in the ownership of operation of the business) shall furnish the following information under oath:
 - (1) Name and address, including all aliases;
 - (2) Written proof that the individual is at least eighteen (18) years of age;

- (3) All residential addresses of the applicant for the past ten (10) years;
- (4) The business, occupation or employment of the applicant for ten (10) years immediately preceding the date of application;
- (5) Whether the applicant previously operated in this or any other states, county or Village under an escort service license or similar business license; whether the applicant has ever had such a license revoked or suspended, the reason therefore and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation;
- (6) All convictions and pending charges of felony, misdemeanor or ordinance violations, except minor traffic violations;
- (7) Fingerprints and photograph registration with the Police Department;
- (8) The address of the escort service to be operated by the applicant;
- (9) If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of the incorporation, the name and address of the registered agent and all officers and directors of the corporation.

(C) **Additional Information.** Each service shall furnish the following information under oath at the time of application.

- (1) The trade name of the escort service. An escort service may operate under only one (1) trade name per license.
- (2) The complete address of the proposed business location with a copy of the deed, lease, or other document pursuant to which the applicant occupies or will occupy, such premises.
- (3) The service's Federal Employer Identification Number.
- (4) A written plan setting forth:
 - (a) Description of the nature of business to be conducted and services to be offered;
 - (b) Hours that the service will be open to the public;
 - (c) Copies of contracts to be used with escorts and customers;

- (d) A receipt from the Finance Department showing payment of the appropriate fee shall be submitted with the application. The amount of the fee shall be on file in the office of the Village Clerk.

7.5.5 Standards for license issuance.

- (A) To receive a license to operate an escort service, an applicant must meet the following standards in addition to paying the license fee as from time to time is set by the Village Board:
 - (1) If the applicant is an individual:
 - (a) The applicant shall be at least eighteen (18) years of age;
 - (b) Subject to Ch. 111, Wis. Stats., the applicant shall not have been convicted of or pleaded *nolo contendere*, or no contest, to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction;
 - (c) The applicant shall not have been convicted of a felony, misdemeanor or ordinance violation which substantially relates to the licensed activity;
 - (d) The applicant shall not have been found to have previously violated this ordinance within five (5) years immediately preceding the date of the application.
 - (2) If the applicant is a corporation:
 - (a) All officers, directors and others required to be named under §7.5.4 shall be at least eighteen (18) years of age;
 - (b) Subject to Ch. 111, Wis. Stats., no officer, director or other person to be named under §7.5.4 shall have been convicted of or pleaded *nolo contendere*, or no contest, to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction;
 - (c) No officer, director or other person required to be named under §7.5.4 shall have been convicted of a felony, misdemeanor or ordinance violation which substantially relates to the licensed activity.

- (d) No officer, director or other person required to be named under §7.5.4 shall have been found to have previously violated this ordinance within five (5) years immediately preceding the date of the application.
- (3) If the applicant is a partnership, joint venture or any other type of organization where two (2) or more persons have a financial interest:
- (a) All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age;
 - (b) No persons having a financial interest in the partnership, joint venture or other type of organization shall, subject to Ch. 111, Wis. Stats., have been convicted of or pleaded *nolo contendere*, or no contest, to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction;
 - (c) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of a felony, misdemeanor or ordinance violation which substantially relates to the licensed activity;
 - (d) No person having a financial interest in the partnership, joint venture or other type of organization shall have been found to have violated any provision of this ordinance within five (5) years immediately preceding the date of the application.
- (4) No license shall be issued unless the Police Department has investigated the applicant's qualifications to be licensed.
- (5) If any charges are currently pending which, if resulting in a conviction, would disqualify the applicant pursuant to subsections (1), (2) or (3) above, the Safety and Licensing Committee may postpone action on the application until such time as the charge is resolved. Should the Safety and Licensing Committee fail to act upon an application within sixty (60) days of the resolution of the charge, the application shall be deemed granted.

7.5.6 Renewal of license.

- (A) Every license issued pursuant to this article will terminate on December 31st following its issuance, unless sooner revoked. Application for renewal shall be on a form provided by the Village Clerk.
- (A) No renewal application will be considered filed in the office of the Village Clerk unless it is accompanied by receipt of the showing payment of the appropriate fee. The amount of the renewal fee shall be on file in the office of the Village Clerk.

7.5.7 Denial of application. Whenever an initial application is denied, the duties of the Village Clerk and the rights of the applicant shall be as set forth in Chapter 68 of Wis. Stats.

7.5.8 Suspension, revocation, or non-renewal license.

- (A) Any license issued under this article may be suspended for not less than ten (10) days nor more than ninety (90) days, or revoked.
- (B) Any violation of the requirements of this article shall be grounds for revocation of a license issued under this article.

7.5.9 Responsibilities of the operator.

- (A) The operator of an escort service shall maintain a register of all employees or independent contractors, showing the name and aliases used by the employee, home address, birth date, sex, telephone numbers, social security number and the date of employment and termination. The above information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.
- (B) **Records and reports required.** Every escort and escort service shall:
 - (1) Provide to each patron a written contract and receipt of payment for services. The contract shall clearly state the type of services to be performed; the length of time such services shall be performed, the total amount of money such services shall cost the patron, and any special terms or conditions relating to the services to be performed.
 - (2) Maintain a legible written record of each transaction of any escort furnished to or arranged for on behalf of any person or customer. The record shall show the date and hour of each transaction, the name, address and telephone number of the person requesting an escort, and the name of every escort furnished.

- (3) The record required by subsections 1 and 2 shall be kept available and open for inspection by the Police Department during business hours.
- (4) The operator of an escort service shall make the register of employees, along with any other records required to be maintained under this article, available immediately for inspection by police upon demand of a member of the Police Department at all reasonable times.
- (5) Every act or omission by an employee constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct. The operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.
- (6) Any act or omission of any employee constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the operator for the purposes of determining whether the operator's license shall be revoked, suspended or renewed.
- (7) No person shall escort or agree to escort a person under the age of eighteen (18) years.

7.5.10 Registration of employees.

- (A) All operators or employees working for any escort service and independent contractors shall, prior to beginning employment or contracted duties, obtain a photo identification card from the Village Clerk. Prior to issuance, the person shall provide:
 - (1) Name, address, birth date, any aliases used, telephone numbers, date of employment and name of employer;
 - (2) Photographs and fingerprinting with the Police Department.
 - (3) Upon registration, the Police Department will provide to each registered employee or independent contractor an identification card, provided by the Village Clerk, containing the employee's or independent contractor's photograph identifying the persons as such, which shall be kept available for production upon request.

- (4) All identification cards shall expire on December 31st following its issuance.
- (5) The applicant shall pay a fee, the amount of which is on file in the office of the Village Clerk.
- (6) Any escort employed by more than one (1) escort service shall submit a separate registration for each service by which the escort is employed.

7.5.11 Penalties. Any person found to have violated any provisions of this article shall be subject to a forfeiture of not less than two thousand dollars (\$2,000) and not more than five thousand dollars (\$5,000).

Article 6
Prostitution

- 7.6.1 Adoption of State Law regarding Prostitution
- 7.6.2 Offer or engaging in sexual contact for compensation
- 7.6.3 Penalties

7.6.1 Adoption of state law regarding prostitution. W.S.A. §944.30, Wis Stats. prohibiting prostitution, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.

7.6.2 Offering or engaging in sexual contact for compensation.

- (A) It shall be unlawful and prohibited for any person to pay a fee or receive a fee, directly or indirectly, or to offer or ask for anything of value, for touching or offering to touch the sexual parts of another either directly or by employing a mechanical or electrically operated device for the purpose of arousing or gratifying the sexual desire of either party.
- (B) It shall be unlawful for any person owning, managing or otherwise controlling any place of business to cause or to permit any agent, employee or other person under his control or supervision to participate in conduct prohibited in subsection (1) of this section.

7.6.3 Penalties. Any person found to have violated any provisions of this article shall be subject to a forfeiture of not less than two thousand dollars (\$2,000) and not more than five thousand dollars (\$5,000).

ARTICLE 7

Regulation and Licensing of Fireworks

7.7.1 REGULATION OF FIREWORKS

- (A) **Definition.** In this Section, “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) A firearm cartridge or shotgun shell.
 - (3) A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.
 - (4) A match, cigarette lighter, stove, furnace, candle, lantern or space heater.
 - (5) A cap containing not more than one-quarter (1/4) grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a can when it is in place for explosion.
 - (6) A toy snake which contains no mercury.
 - (7) A model rocket engine.
 - (8) Tobacco and a tobacco product.
 - (9) A sparkler on a wire or wood stick not exceeding thirty-six (36) inches in length that is designed to create audible or physical effects.
 - (10) A device designed to spray out paper confetti or streamers and which contains less than one-quarter (1/4) grain of explosive mixture.
 - (11) A 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 (3) grams in total weight.
 - (12) A device that emits smoke with no external flame and does not leave the ground.

- (13) A cylindrical fountain not exceeding one hundred (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) A cone fountain not exceeding seventy-five (75) grams in total weight, signed to sit on the ground and emit only sparks and smoke.
- (B) **Sale.** No person may sell or possess with intent to sell fireworks, except:
- (1) To a person holding a permit under Subsection(C);
 - (2) To a municipality; or
 - (3) The person sells the fireworks, or possesses the fireworks with intent to sell them, to a person who is not a resident of this state.
 - (4) The person sells the fireworks, or possesses the fireworks with intent to sell them, for a purpose specified under section (C).
- (C) **Use.**
- (1) Permit Required. No person may use fireworks without a user's permit from the Village President or from an official or employee of the Village as designated by the Village Board.
 - (2) No person may use fireworks or a device listed under Subsection (A)(5)-(7) and (9)-(14) while attending a fireworks display for which a permit has been issued to a person as described above.
 - (3) Permit Exceptions. Subparagraph (C)(1) above does not apply to:
 - (a) The Village, except the Village fire and law enforcement officials shall be notified of the proposed use of fireworks at least fourteen (14) days in advance.
 - (b) The possession or use of explosives in accordance with rules or general order of the Wisconsin Department of Industry, Labor and Human Relations.

- (c) The disposal of hazardous substances in accordance with rules adopted by the Wisconsin Department of Natural Resources.
- (d) The possession or use of explosive or combustible materials in any manufacturing process.
- (e) The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.
- (f) A possessor or manufacturer of explosives in possession of a license or permit under 18 U.S.C. 841 to 848 if the possession of the fireworks is authorized under the license or permit.

(D) **Storage and Handling.**

- (1) 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.
- (2) Smoking Prohibited. No person may smoke where fireworks are stored or handled.
- (3) Fire Chief to be Notified. A person who stores or handles fireworks shall notify the Fire Chief of the location of the fireworks.
- (4) Storage Distance. No wholesaler, dealer or jobber may store fireworks within five hundred (500) feet of a dwelling.
- (5) Restrictions on Storage. No person may store fireworks within five hundred (500) feet of a public assemblage or place where gasoline or volatile liquid is sold in quantities exceeding one (1) gallon.

- (E) **Parental Liability.** A parent, foster parent, family-operated group home 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.

State Law Reference: Sec. 167.10, Wis. Stats.

- (1) Who May Obtain A Permit. A permit under this Subsection may be issued only to the following:
 - (a) A public authority.
 - (b) A fair association.
 - (c) An amusement park.
 - (d) A park board.
 - (e) A civic organization.
 - (f) An individual or group individuals.
 - (g) An Ag Producer for protection of crops from predatory birds or animals.

- (2) Bond. The Village President issuing a permit under this subsection shall require an indemnity bond with good and sufficient sureties or policy of liability insurance for the payment of all claims that may arise by reason of injuries to 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 be less than One Million Dollars (\$1,000,000). The bond or policy, together with a copy of the permit, shall be filed in the office of the Village.

- (3) Required Information for Permit. A permit under this Subsection shall specify all of the following:
 - (a) The name and address of the permit holder.
 - (b) The date on and after which fireworks may be purchased.

- (c) The kind and quantity of fireworks which may be purchased.
 - (d) The date and location of permitted use.
 - (e) Other special conditions prescribed by ordinance.
- (5) Copy of Permit. A copy of a permit under this Subsection shall be given to the Fire Chief and Chief of Police at least seven (7) days before the date of authorized use.
- (6) Minors Prohibited. A permit under this Subsection may not be issued to a minor.

ARTICLE 8
Street Use Permits

7.8.1 STREET USE PERMITS.

- (A) **Purpose.** The streets under the jurisdiction of the Village are primarily for the use of the public in the ordinary way. However, under proper circumstances, the Administrator or Police Chief 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 to the end that the health, safety and general welfare of the public and the good order of the Village can be protected and maintained.
- (B) **Application.** A written application for a Street Use Permit by persons or groups desiring the same shall be made on a form provided by the Village Administrator and shall be filed with the Village Clerk. The application shall set forth the following information regarding the proposed street use:
- (1) The name, address and telephone number of the applicant or 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 of the authorizing responsible heads of such organization.
 - (3) The name, address and telephone number of the person or 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 that portion of the street proposed to be used.
 - (6) The approximate number of persons for whom use of the proposed street area is Requested.
 - (7) The proposed use, described in detail, for which the Street Use Permit is requested.
 - (8) Any recording or sound amplification equipment to be used.
 - (9) Any additional information that the Administrator or the Chief of Police finds necessary in order to make determination of whether a permit should be issues including but not limited to a crowd control plan.
- (C) **Denial of Street Use Permit.** An application for a Street Use Permit may be denied if:

- (1) The proposed street use is strictly for financial or commercial gain.
- (2) The time and size of the event would substantially interrupt the safe and orderly movement of pedestrian and vehicular traffic in the vicinity of the event's location; or
- (1) The concentration of persons at the event would unduly interfere with proper fire and police protection of, or other emergency service to or through, the event or to areas adjacent to the event's location; or
- (4) The estimated number of participant of the size or type of event equipment is no sufficient to close a street and there is an alternative channel of communication available; or
- (5) Another street use permit has already been granted for substantially the same time and location; or
- (6) The size or time of the event would require so great a diversion of the Village police as to prevent normal police protection of the Village or to prevent adequate police protection at another previously schedule Village-wide event; or
- (7) The event is reasonably likely to cause injury to persons or property and there is inadequate planning for crowd control of participants; or
- (8) Adequate sanitation or other necessary Health facilities will not be available at the event; or
- (9) There is an insufficient number of parking places within a reasonable distance to accommodate the number of vehicles expected; or
- (10) The time, size or nature of the event is incompatible with the normal activity at that location so as to impermissibly intrude on the comfort and convenience of the residents; or
- (11) The proposed use or event will have a significantly adverse environmental impact; or

- (D) **Insurance.** 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 of Marathon City its employees and agents as additional insured. The insurance shall include coverage for contractual liability of a minimum limits of \$1,000,000 combined single limits occurrence. The certificate of insurance shall provide 30 day written notice to the Village of cancelation, non-renewal, or material change in the policy.
- (E) **Termination of a Street Use Permit.** A Street Use Permit for an event in progress may be terminated by the Administrator or Law Enforcement Officer 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 of Marathon City. The Village President, Administrator or a Law Enforcement Officer 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.

ARTICLE 9
Special Events Permit

7.9.1 SPECIAL EVENTS PERMITS.

- (A) **Purpose.** The public areas under the jurisdiction of the Village are primarily for the use of the public in the ordinary way. However, under proper circumstances, the administrator or Police Chief may grant a permit for Special Events, subject to reasonable municipal regulation and control. Therefore, this Article is enacted to regulate and control the special events pursuant to a Special Events Permit to the end that the health, safety and general welfare of the public and the good order of the Village can be protected and maintained.
- (B) **Application.** A written application for a Special Event Permit by persons or groups desiring the same shall be made on a form provided by the Village Administrator and shall be filed with the Village Clerk. The application shall set forth the following information regarding the proposed event:
- (1) The name, address and telephone number of the applicant or applicants.
 - (2) If the proposed event 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 of the authorizing responsible heads of such organization.
 - (3) The name, address and telephone number of the person or persons who will be responsible for conducting the proposed event.
 - (4) The date and duration of time for which the requested event is proposed to occur.
 - (5) An accurate description of that area proposed to be used.
 - (6) The approximate number of persons for whom use of the proposed area is requested.
 - (7) The proposed use, described in detail, for which the Special Event Permit is requested.
 - (8) Any recording or sound amplification equipment to be used.
 - (9) Any additional information that the Administrator or the Chief of Police finds necessary in order to make determination of whether a permit should be issued including but not limited to a crowd control plan.

(C) **Denial of Special Event Permit.** An application for a Special Event Permit may be denied if:

- (3) The proposed event is strictly for financial or commercial gain.
- (4) The time and size of the event would substantially interrupt the safe and orderly movement of pedestrian and vehicular traffic in the vicinity of the event's location; or
- (2) The concentration of persons at the event would unduly interfere with proper fire and police protection of, or other emergency service to or through, the event or to areas adjacent to the event's location; or
- (4) The estimated number of participant of the size or type of event equipment is no sufficient to close a street and there is an alternative channel of communication available; or
- (5) Another special event permit has already been granted for substantially the same time and location; or
- (6) The size or time of the event would require so great a diversion of the Village police as to prevent normal police protection of the Village or to prevent adequate police protection at another previously schedule Village-wide event; or
- (7) The event is reasonably likely to cause injury to persons or property and there is inadequate planning for crowd control of participants; or
- (8) Adequate sanitation or other necessary Health facilities will not be available at the event; or
- (9) There is an insufficient number of parking places within a reasonable distance to accommodate the number of vehicles expected; or
- (10) The time, size or nature of the event is incompatible with the normal activity at that location so as to impermissibly intrude on the comfort and convenience of the residents; or
- (11) The proposed use or event will have a significantly adverse environmental impact; or

- (D) **Insurance.** The applicant for a Special Event 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 of Marathon City its employees and agents as additional insured. The insurance shall include coverage for contractual liability of a minimum limits of \$1,000,000 combined single limits occurrence. The certificate of insurance shall provide 30 day written notice to the Village of cancelation, non-renewal, or material change in the policy.
- (E) **Termination of a Special Event Permit.** A Special Event Permit for an event in progress may be terminated by the Administrator or Law Enforcement Officer 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 of Marathon City. The Village President, Administrator or a Law Enforcement Officer 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.

ARTICLE 10
Miscellaneous Business Licenses

7.10.1 Transient and Temporary Public Entertainments

7.10.1 TRANSIENT AND TEMPORARY PUBLIC ENTERTAINMENTS.

(A) **License Required.**

(1) No person shall maintain or operate any transient or temporary public entertainment within the Village without first obtaining a license therefore as hereinafter provided.

(2) This Section does not require a license for the conducting of fairs, lectures, concerts, exhibitions or entertainments of a scientific, historical, political, literary or musical character for humane, religious, charitable or scientific purposes.

(B) **Definition.** A transient or temporary public entertainment is one to which the public may gain admission by payment of an admission charge. It includes shows, circuses, exhibitions, carnivals and vaudeville.

(C) **Application.** Application for carnival licenses shall be made by the applicant to the Administrator in writing at least ten (10) days before the planned event and all of the information regarding insurance, etc., shall be filed within ten (10) days and referred to the Village Board for examination of qualifications, character and reputation of the applicant, and of the desirability of permitting the carnival to operate, show or exhibit in the Village.

(D) **Requirements.**

- (1) Insurance Required. No license shall be granted unless the applicant therefor shall have filed with the Administrator a general liability insurance policy in a sum as set by the Village Board from time to time, with the condition that the applicant shall indemnify and save harmless the Village and its officers and agents against any injuries and damages resulting or arising from the conducting of any carnival for which the license is issued or from the performance by the applicant or its agents of any negligence incident to or connected with the conduct of such carnival, and that the applicant shall pay all judgments, costs and charges that may be charged against the Village or any of its officers or agents by reason of the conducting of such carnival.
- (2) License Fees Required. No permit shall be issued unless the applicant shall pay permit fee for the operation or maintenance of a public entertainment as established in the Schedule of Village License Fees.
- (3) Posting of License. Such permits when issued shall be prominently displayed while the carnival is in operation.
- (4) Inspection of Mechanical Devices. The applicant shall indicate the date of the last State inspection of rides, merry-go-rounds and other mechanical devices. The Village reserves the right to require inspections of all mechanical devices that would be available to the public. All inspection costs shall be paid by the licensee.

- (D) **Revocation.** Any license granted by the Village Board under the provisions of this Section may be revoked by the Village Board provided such carnival shall not be maintained or if the person who maintains, owns, controls or operates such carnival, shall permit the violation of any provisions of this Municipal Code or state laws.

ARTICLE 11
Licensees to Pay Local Claims; Appellate Procedures

7.11.1 LICENSES REQUIRED TO PAY LOCAL TAXES, ASSESSMENTS AND CLAIMS.

- (A) **Payment of Claims.** The Village shall not issue or renew any license to transact any business within the Village of Marathon when:
- (1) For any purposes for which taxes, assessments or other claims of the Village are delinquent and unpaid.
 - (2) For any person who is delinquent in payment:
 - a. Of any taxes, assessments or other claims owed the Village; or
 - b. Of any forfeiture resulting from a violation of any Village Ordinance.
- (B) **Exception.** This Section shall apply to licenses issued pursuant to the provisions of Title 7 of this Code of Ordinances, except Article 1.
- (C) **Applicability.** An application for renewal of a license subject to this Article shall be denied pursuant to the provisions of Subsection (a) only following notice and opportunity for hearing as provided by Subsection (d) below.
- (D) **Hearings.** Prior to any denial of an application for renewal of a license, including denials pursuant to Subsection (a), the applicant shall be given notice and opportunity for a hearing as hereinafter provided:
- (1) With respect to licenses renewable under Article 2 of Title 7 of this Code of Ordinances, notice and opportunity for hearing shall be as provided by Sec. 125.12, Wis. Stats., as amended from time to time.

(2) With respect to licenses other than those described in Subsection (1) herein, the Village Board or its assignee shall notify the applicant in writing of the Village's intent not to renew the license and shall provide the applicant with an opportunity for hearing. The notice shall state the reasons for the intended action and shall establish a date, not less than three (3) days nor more than ten (10) days after the date of the notice on which the applicant shall appear before the Village Board. If the applicant shall fail to appear before the Board on the date indicated on the notice, the Board shall deny the application for renewal. If the applicant appears before the Board on the date indicated in the notice and denies that the reasons for non-renewal 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. If the Village Board determines the applicant shall not be entitled to renewal pursuant to Subsection (1), the application for renewal shall be denied.

(E) **Appeals of Other Denials.** Where an individual, business or corporation wishes to appeal the Village Administrator or Chief of Police decision not to issue a license or permit under this title on grounds other than those specified in Subsections (a) through (d) above, 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 within fourteen (14) calendar days by the Village Board. All parties may be represented by counsel. The Board shall consider all relevant information and shall render a decision which shall be binding.

ARTICLE 12
MOBILE VENDING

- 7.12.1 Definitions
- 7.12.2 License Required
- 7.12.3 Exemptions
- 7.12.4 Mobile Vending Licenses
- 7.12.5 License Denial, Revocation & Appeal
- 7.12.6 Restrictions on Vending
- 7.12.7 Vending From Vehicle or Other On-Street Units
- 7.12.8 Penalties
- 7.12.9 Severability

7.12.1 Definitions

The following definitions shall apply in the interpretation and enforcement of this chapter:

- (1) “Block-face” means one side of a City block between two consecutive streets.
- (2) “*Charitable organization*” means any patriotic, philanthropic, social service, welfare, benevolent, educational, civic or fraternal, person, partnership, association or corporation that is validly registered under Wis. Stats. § 440.42.
- (3) “*Health Department*” means the Marathon County Health Department.
- (4) “Licensee” means an applicant who has obtained a license to conduct a mobile vending operation pursuant to this chapter.
- (5) “Mobile Vending Unit” means any motorized or non-motorized vehicle, trailer, kiosk, push or pedaled cart, stand, display, carried container, blanket, ground covering or other device designed to be portable and not permanently attached to the ground from which food, beverages, goods, wares, or merchandise are being peddled, vended, sold, served, displayed, offered for sale or given away. Mobile vending unit does not include a mobile wholesale delivery unit, a vehicle which is used solely to transport or deliver food, or a common carrier regulated by the state or federal government.
- (6) “Mobile vendor” means a person who peddles, vends, sells, serves, displays, offers to sell or give away food, beverages, goods, wares, or merchandise from a mobile vending unit.
- (7) “Public streets” as used in this chapter, means any highway, street, or alley, located within the corporate limits of the Village of Marathon City.
- (8) “School property” means all property owned or operated by a public school as defined in Wis. Stats. § 115.01(1) or owned or operated by a private school as defined in Wis. Stats. § 118.165, grades kindergarten through 12.

- (9) "Sidewalk" includes sidewalks and paved boulevards located within the corporate limits of the Village of Marathon City.
- (10) "Vend" means to peddle, vend, sell, serve, display, offer to sell, or give away food, beverages, goods, wares, or merchandise.

7.12.2 License Required.

- (A) No mobile vendor shall vend from a mobile vending unit on sidewalks or public streets without first obtaining a license as set forth in this chapter.
- (B) No license issued under this chapter authorizes the holder to vend in any public park including driveways, parking areas, and public rights-of-way within Village parks.
- (C) The license issued under this chapter is in addition to any other local, state, or other federal approvals, permits, or licenses required by applicable law.

7.12.3 Exemptions.

The following mobile vendors may vend without a license:

- (A) A person, on behalf of a charitable organization, selling individually wrapped, sealed food items that are prepared and packaged by a licensed processor.
- (B) Mobile vendors vending from mobile vending units that are approved participants of a Special Event under the Village's Special Events Policy and Procedures.
- (C) Mobile vendors vending from mobile vending units located on private property with the approval of the property owner or its authorized agent.

7.12.4 Mobile Vending Licenses.

- (A) Application. All applicants shall pay an application fee of \$25.00 and submit a sworn application on a form provided by the Village Clerk which shall give the following minimum information:
 - (1) Name, address, telephone number and date of birth of the applicant.
 - (2) Name, address, and telephone number of the person, firm, association, or corporation that the applicant represents or is employed by, or whose products are being vended.

- (3) A photograph or drawing, including dimensions, of the mobile vending unit along with identification and depiction of all supporting features including, but not limited to, umbrella, chair and waste receptacle.
 - (4) A description of the product(s) to be vended.
 - (5) A drawing or map of the single fixed vending site under section 7.12.4, if applicable.
 - (6) Make, model and license number of any vehicle to be used by applicant in the conduct of the business.
 - (7) Statement of whether the applicant has been arrested or convicted of any crime or ordinance violation together with the nature of the offense and the place of conviction.
 - (8) Copy of a current State of Wisconsin or Health Department license for the vending of any food items.
 - (9) Copy of a current State of Wisconsin Seller's Permit.
 - (10) If an applicant intends to use more than one mobile vending unit in the operation of its business, the information required in subsections (3) and (6) must be provided for each mobile vending unit.
- (B) A licensee may be a corporation, cooperative or partnership; however, the application and license shall designate a primary individual who is regularly involved in all phases of the production process and who is responsible for the vending operation. Such corporation, cooperative or partnership shall be liable for the acts or omissions of its supplemental vendors, but such liability shall not relieve any individual supplemental vendor from liability from his/her own acts or omissions.
- (C) Age. All applicants must be at least 18 years of age. All mobile vendor vehicle drivers must be at least 18 years of age.

- (D) Insurance. An applicant must have in force adequate liability insurance listing the Village of Marathon City as an “Additional Named Insured” and must agree to indemnify, defend, and hold the Village, its employees and agents harmless against all claims, liability, loss, damage, or expense incurred by the Village as a result of any injury to or death of any person or damage to property caused by or resulting from the activities for which a license may be granted. As evidence of liability insurance, the applicant shall furnish a Certificate of Insurance, on a form acceptable to the Village, evidencing the existence of commercial general liability insurance naming the Village of Marathon City, its employees and agents as additional insureds with minimum limits of \$500,000 per occurrence and \$1,000,000.00 in the aggregate. All applicant’s vehicles use for mobile vending must be insured with a commercial automobile liability insurance policy with a minimum of \$1,000,000 combined single limits (CSL) coverage. Whenever such policies are cancelled, not renewed, or materially changed, the insurer and the licensee shall notify the Village by certified mail.
- (E) Fees. The applicant shall pay a fee as set forth in section 7.12.4 (A) at the time of application. The license fee, as set forth in the Village Fee Schedule, shall be paid at the time the application is filed with the Village Clerk. The license fee will be returned to the applicant if the license is not approved.
- (F) Term. Licenses shall be issued on an annual basis beginning on April 1 and expiring on March 31, subject to the provisions of subsection (J). There will be no pro rata or other reduction for applications.
- (G) [This subsection is intentionally left blank].
- (H) Investigation.
- (1) Upon receipt of an application and fee, the Village Clerk shall refer the application to the Chief of Police or his/her designee. The Chief of Police or his/her designee shall make an investigation of the accuracy of the statements made in the application and determine whether the applicant has been convicted of a felony, misdemeanor, statutory violation punishable by forfeiture, or county or municipal ordinance violation in which the circumstances of the felony, misdemeanor, or other offense substantially relate to the circumstances of the permitted activity and, if so, the nature and date of the offense and the penalty assessed.

- (2) If, as a result of an investigation, the Chief of Police or his/her designee discovers that any representation on the application contains a material omission or inaccuracy, or the Chief of Police or his/her designee is of the opinion that the applicant is not a fit person to conduct such sales, the Chief of Police or his/her designee shall return the application to the Village Clerk for referral to the Licensing Committee of the Village Board of Trustees who shall approve or disapprove the same and return the application to the Village Clerk. Upon return of a disapproved application, the Village Clerk shall notify the applicant by mail and in writing that the permit has been denied, along with the reasons therefore.
- (3) If as a result of an investigation, the Chief of Police or his/her designee is of the opinion that the applicant is a fit person to conduct such sales, the Chief of Police or his/her designee shall endorse on the application his/her approval and return the same to the Village Clerk who shall issue a license to the applicant.

(J) License.

- (1) Upon compliance with the provisions of this chapter and any other applicable ordinance, a license will be issued to a mobile vendor. The possession of a license by a mobile vendor does not in and of itself entitle a vendor to the use of any specific vending site on a specific day or entitle a vendor to a minimum number of vending days during the licensing period.
- (2) Licenses shall include information deemed necessary by the Village Clerk and shall contain at a minimum, the name, address, telephone number and contact person for the mobile vendor, type of vending allowed, and the date of issuance and expiration of the license. Any license issued for a single fixed vending site under section 5.62.070 shall set forth the location of the fixed vending site approved for such mobile vendor.
- (3) Every mobile vendor shall prominently display his/her license at all times and in plain view to the public on the mobile vending unit. No license issued under this chapter may be transferred by the licensed mobile vendor. A mobile vendor may transfer its license to another mobile vending unit owned and operated by that mobile vendor provided such other mobile vending units are approved under section 7.12.4. A mobile vendor may not operate more than one mobile vending unit within the Village at any one time.

7.12.5 License Denial, Revocation and Appeals

- (A) License denial. Any person denied a license may appeal the denial through the appeal procedure provided by ordinance or resolution of the Village Board or, if none has been adopted, under the provisions of Sections 68.07 through 68.16, Wis. Stats.
- (B) Suspension, revocation or non-renewal.
 - (1) The Public Health and Safety Committee may suspend, revoke, or fail to renew a license issued under this chapter. Cause for suspending, revoking, or non-renewal of a license shall include one or more of the following reasons:
 - (a) Violation by licensee, its manager, or an employee of a provision of this chapter or other ordinance of the Village applicable to the business of the licensee.
 - (b) Violation of Health Department or state food or health regulations.
 - (c) Fraud, misrepresentation, or false statement contained in the license application submitted under this chapter or made in carrying on of the business of the licensee.
 - (d) Conviction of the licensee, its manager, or an employee of a felony or misdemeanor substantially related to mobile vending operations.
 - (e) Conducting mobile vending operations in such a manner as to constitute a menace to the health, safety, or general welfare of the public.
 - (2) Appeal of the decision of the License Committee shall be through the appeal procedure provided by ordinance or resolution of the Village Board or, if none has been adopted, under the provisions of Sections 68.07 through 68.16, Wis. Stats. made as provided in chapter 2.21 of this Code.
 - (3) No applicant who has had a license denied, or licensee who has had his/her license suspended, revoked or non-renewed may make further application for a license under this chapter for one year.

7.12.6 Restrictions on Vending

The following restrictions apply to all mobile vendors operating with the Village:

- (A) Vending shall only be permitted between the hours of 9:00 a.m. and 9:00 p.m.
- (B) Connection of a mobile vending unit to a public source of electricity, water or sewer at a mobile vending site is prohibited.

- (C) No mobile vendor may use any public property such as light poles or other utility poles, flower planters, trees, or other amenities to attach any ropes, posters, signs, electrical cords, or other objects used in his/her operations.
- (D) All mobile vending units shall be removed from their location and returned to their mobile base within 30 minutes of the cessation of vending hours as provided in subsection (A) and 9:00 a.m. and during any other time such unit is not actively operational.
- (E) Vending and adjoining areas shall be kept clean and free from litter, garbage, rubble, and debris at all times. All mobile vending units shall be equipped with at least one leak-proof container for the deposit of waste, garbage, litter, and refuse. All such containers shall be kept covered with tight-fitting lids. When leaving vending area, the mobile vendor and his/her employee(s) shall be responsible for the removal of all litter resulting from the vending operations.
- (F) Seating for consumer consumption or use of products sold is not allowed at a vending site occupied by the mobile vending unit. One chair, stool, or seat for use by the operator will be allowed.
- (G) Mobile vendors shall provide a minimum four-foot clearance on sidewalks and rights-of-way for pedestrian access and traffic.
- (H) No mobile vendor shall sell food that is unwholesome, tainted, unclean, or that has been handled in an unclean manner, or has been exposed to unclean, contaminating things or conditions, or contrary to any local or state law, rule or regulation.
- (I) The size of any mobile vending unit and operating area, accommodated on sidewalks, shall not exceed 32 square feet. The height of any mobile vending unit, excluding canopies, umbrellas, or transparent enclosures, shall not exceed six feet.
- (J) All equipment used at the vending site shall be in a clean, sanitary, hazard free condition and maintained in a presentable appearance and in good repair, without noticeable holes or other structural defects.

- (K) The licensee or other operator of a mobile vending unit shall be present with the mobile vending unit at all times during which products are displayed or sold, except that a licensee or other operator may leave his/her vending location and mobile vending unit unattended during lawful vending hours for a maximum of 60 minutes per day, provided the mobile vending unit does not impede pedestrian or vehicular access or traffic.
- (L) Noise levels emanating from the vending site shall be kept to a minimum, shall not be directed toward the street or sidewalk, and shall be reasonable so as not to disturb the peace and quiet of those in the vicinity, including but not limited to residents, merchants and customers. No person may make any loud, unreasonable noise of any kind by vocalization or otherwise for the purpose of advertising or attracting attention to his or her wares.
- (M) The Marathon City Police Department shall have the authority to remove or cause the removal of any vending equipment, mobile vending unit, food, beverages, goods, wares or merchandise found on the highway, street, alley, sidewalk, public right-of-way or other vending location in violation of this chapter. In addition to any forfeiture that may be imposed, the violator shall also be liable for any removal, towing and storage charges incurred by the Village as a result.
- (N) No mobile vendor shall conduct business within 75 feet of the main entrance of any business selling same or similar products during the hours said business is open for the sale of said products, unless written permission is granted by said business and such documentation is placed on file with the Village Clerk.
- (O) No mobile vendor shall conduct business within 200 feet of school property during school hours, unless written permission is granted by the school superintendent or other equivalent authority and such documentation is placed on file with the Village Clerk.
- (P) To encourage the integrity, comprehensiveness and success of Special Events no vending shall be permitted on public streets, sidewalks or in any Village parks:
 - (1) Within two blocks of the event premise where the Village of Marathon City has issued a Special Events permit during the hours approved for the Special Event.

Mobile vendors are responsible for determining dates and times of Special Events held within the Village.

- (Q) No mobile vendor shall conduct business within ten feet of a fire hydrant or ten feet of a bus shelter or bus stop.
- (R) A mobile vending unit shall maintain clear access and visibility of cross walks and street corners.
- (S) During the hours of 9:00 a.m. and 9:00 p.m. no more than two food mobile vending units and two non-food mobile vending units may occupy a block face at any one time.
- (T) No mobile vendor may sell secondhand goods or articles from a mobile vending unit as its primary business operation.
- (U) The Director of Public Works may designate public streets and sidewalks temporarily unavailable due to construction, special events, or other unforeseen events.

7.12.7 Vending From Vehicles or Other On-street Units

- (A) Any vehicle or other on-street unit used for vending food in any public street must be designed and constructed specifically for the purpose of vending such food products. A mobile vendor vending food products from a vehicle or other on-street unit must obtain all necessary approvals from the Village Fire Department.
- (B) Any motor vehicle used in vending on public streets shall have a valid DOT safety inspection completed annually. Proof of such inspection shall be provided at the time of application for a mobile vending license.
- (C) Any motor vehicle used in vending on public streets shall have valid vehicle registration as required under Wis. Stats. Ch. 341, and its operator shall have and maintain a valid Wisconsin driver's license at all times.
- (D) Any motor vehicle used in vending on public streets must provide seating for all occupants of the vehicle and must comply with safety belts requirements under Wis. Stats. §347.48.

- (E) In addition to the insurance requirements of section 7.12.4(d), the operator of any motor vehicle used for vending in any public street shall have in effect motor vehicle liability insurance as required under Wis. Stats. § 344.62 and in a minimum amount of \$1,000,000.00. Proof of such insurance shall be provided at the time of application for a vending license. Whenever such policy is cancelled, not renewed, or materially changed, the insurer and the licensee shall notify the Village by certified mail.
- (F) No vending shall be made in a public street from a vehicle or other on-street unit except from the curbside of said vehicle or on-street unit.
- (G) A mobile vendor and any vehicle or other on-street unit vending in any public street shall comply with all state and municipal traffic and parking laws at all times.

7.12.8 Penalties.

- (A) Any person violating this chapter shall, upon conviction for a first offense, forfeit \$100.00, together with the costs of prosecution. Each and every day during which any such violation continues shall constitute a separate violation.
- (B) Any person violating this chapter shall, upon conviction for a second offense or subsequent offense, forfeit \$200.00, together with the costs of prosecution. Each and every day during which any such violation continues shall constitute a separate violation.

7.12.9 Severability.

If any provision or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of chapter shall not be affected thereby.

ARTICLE 13
Fee Schedule

7.13.1 FEE SCHEUDLE

The fees referred to in this ordinance shall be established by the Village Board and may from time to time be modified by resolution. A schedule of fees established shall be available for review in the office of the Village Clerk.