

TITLE 7

Licensing and Regulation

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Chapter 1

Licensing of Dogs and Regulation of Animals

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Sec. 7-1-1 Dog License Required; Definitions.

- (a) **License Required.** It shall be unlawful for any person in the Village of Fredonia to own, harbor or keep any dog for more than five (5) months of age after April 1st 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.** Any person owning, harboring or keeping a dog or cat and the occupant of any premises on which a dog or cat 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 or cat within the meaning of this Section.

- (2) **At Large.** To be off the premises of the owner and not under the control of some person by leash, but a dog or cat within an automobile of its owner, or in an automobile or any other person with the consent of the owner of said dog or cat, shall be deemed to be upon the owner's premises.
- (3) **Dog.** Any canine, regardless of age or sex.
- (4) **Cat.** Any feline, regardless of age or sex.
- (5) **Neutered.** A dog or cat having nonfunctional reproductive organs.
- (6) **Animal.** Mammals, reptiles and birds.
- (7) **Cruel.** 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.** Any warm-blooded animal normally raised on farms in the United States and used for food or fiber.
- (10) **Pet.** An animal kept and treated as a pet.

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

Sec. 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 within thirty (30) days after the dog reaches four (4) month 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 of Fredonia after the dog has reached four (4) 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. 95.12(2), Wis. Stats.
- (b) **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 during competition or training, to a dog while hunting, to a dog securely confined indoors or to a dog securely confined in a fences 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 to not apply to a dog which is not required to be vaccinated under Subsection (a).

State Law Reference: Sec. 95.21, Wis. Stats.

Sec. 7-1-3 Issuance of Dog and Kennel Licenses.

(a) Dog Licenses.

- (1) It shall be unlawful for any person in the Village of Fredonia 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, Wisconsin Statutes, 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 tax under this Section shall be Five Dollars (\$5.00) for spayed females or neutered males. The minimum fee for unsprayed or unneutered animals shall be Ten Dollars (\$10.00). These amounts shall be reduced by one-half (1/2) if the animal became five (5) months of age after July 1 during the license year. The license year shall commence January 1 and end December 31.
- (1) Upon payment of the required license tax and upon presentation of evidence that the dog is currently immunized against rabies, as required by Section 7-1-2 of this Chapter, the Village Clerk-Treasurer shall complete and issue to the owner a license for such dog containing all information required by state law. The Village Clerk-Treasurer 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.
- (2) 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).
- (3) 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.
- (4) Notwithstanding 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 Clerk-Treasurer upon application therefore.

(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 of Thirty-Five Dollars (\$35.00) for a kennel of twelve (12) or fewer dogs and an additional Five Dollars (\$5.00) for each dog in excess of twelve (12). 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 Clerk-Treasurer 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 agricultural areas after a conditional use permit has been issued pursuant to the Village Zoning Code; kennels are prohibited elsewhere.

- (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.
- (3) The term "kennel" means any establishment wherein or whereon three (3) or more dogs are kept.
- (4) No kennel license shall be issued to the keeper or operator of a kennel who fails to provide proper food and drink and proper shelter for the dogs in said kennel or who neglects or abandons said dogs. The Village Board or other designated official shall investigate any complaints regarding the failure to maintain proper standards or investigate any kennel premises upon his own initiative. Expressly incorporated by reference in this Section as minimum standards for kennel keepers or operator are the relevant provisions of Chapter 948 of the Wisconsin Statutes.

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

Sec. 7-1-4 Late Fees

The Village Clerk-Treasurer 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 is the owner failed to obtain a license prior to April 1 of each year, or within thirty (30) days of acquiring ownership of a licensable dog or 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.

Sec. 7-1-5 Restrictions on Keeping of Dogs, Cats, Fowl and Other Animals.

- (a) **Restrictions.** It shall be unlawful for any person within the Village of Fredonia to own, harbor or keep any dog or cat 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 7-1-11.)
- (5) Kills wounds or worries any domestic 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) Vicious Dogs and Animals.

- (1) No vicious dog shall be allowed off the premises of its owner unless muzzled or on a leash in charge of the owner or a member of the owner's immediate family over sixteen (16) years of age. For purposes of enforcing this Section, a dog shall be deemed as being of a vicious disposition if, within any twelve (12) month period it bites two (2) or more persons or inflicts serious injury to one (1) person in unprovoked circumstances off the owner's premises. Any vicious dog which is found off the premises of its owner other than as hereinabove provided may be seized by any person and, upon deliver to the proper authorities, may, upon establishment to the satisfaction of a court of competent jurisdiction of the vicious character of said dog, by testimony under oath reduced to writing, be killed by law enforcement or humane authorities.
- (2) No person shall harbor or permit to remain on his premises any animal that is habitually inclined toward attacking persons or animals, destroying property, barking excessively or making excessive noises or running after automobiles.

(c) Animals Running at Large.

- (1) No person having in his possession or ownership any animal or fowl shall allow the same to run at large off the owner's property within the Village. The owner of any animal, whether licensed or unlicensed, shall keep his 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 humane or law enforcement officer.
- (2) A dog or cat shall not be considered to be running at large if it is on a leash not to exceed ten (10) feet in length and under control of a person physically able to control it.

- (d) Owner's Liability for Damage Caused by Dogs; Penalties.** The provisions of Sec. 174.02, Wis. Stats., relating to the owner's liability for damage caused by dogs together with the penalties therein set forth are hereby adopted and incorporated herein by reference.

Sec. 7-1-6 Impoundment of Animals

(a) Animal Control Agency.

- (1) The Village of Fredonia 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 of Fredonia does hereby delegate to 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 of this Chapter, any law enforcement or humane officer may impound any dog, cat 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 animal or is infected with rabies. In order for an 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 made under oath alleging the facts regarding the violation and containing an agreement to reimburse the Village for any damages it sustains for improper or illegal seizure.
- (c) Claiming Animal; Disposal of Unclaimed Animals.** After seizure of animals under this Section by a law enforcement or humane officer, the animal shall be impounded. 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 post written notice in three (3) public places in the Village, giving description of the animal, stating where it is impounded and the conditions for 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 seven (7) days, the animal warden may sell the animal to any willing buyer.
- (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.

Sec. 7-1-7 Dogs and Cats Restricted on Cemeteries

No dog or cat shall be permitted in any public cemetery. Every dog specially trained to lead blind persons shall be exempt from this Section.

Sec. 7-1-8 Duty of Owner in Case of Dog or Cat Bite.

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

Sec. 7-1-9 Animal Feces.

The owner of 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.

Sec. 7-1-10 Injury to Property by Animals.

It shall be unlawful for any person owning or possessing an animal, dog or cat to permit such animal, dog or cat 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 thereon.

Sec. 7-1-11 Barking Dogs or Crying Cats.

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

Sec. 7-1-12 Prohibited and Protected Animals, Fowl, Reptiles and Insects.

(a) Protected Animals.

- (1) 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 any of the following animals, alive or dead, or any part or product thereof: all wild cats of the family felidae, polar bear (*thalarctos maritimus*), red wolf (*canis niger*), vicuna (*vicugna vicugna*), or alligator, caiman or crocodile of the order of crocodilian, gray or timber wolf (*canis lupus*), sea otter (*enhydra lutris*), Pacific ridley turtle (*lepidochelys olivacea*), Atlantic green turtle (*chelonian mydas*), Mexican ridley turtle (*lepidochelys kemp*).
- (2) Compliance with Federal Regulations.** It shall be unlawful for any person, firm or corporation to buy, sell or offer for sale a native of foreign species or subspecies of mammal, bird, amphibian or reptile, or the dead body of parts thereof, which appears on the endangered species list designated by the United States 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).
- (3) 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.

- (b) **Exceptions.** 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.
- (c) **Wild Animals; 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. Specifically, it shall be unlawful for any person to keep, maintain or have in his possession or under his control within the Village any of the following animals, reptiles or insects:
- (1) All poisonous animals and reptiles including rear-fang snakes.
 - (2) Apes: Chimpanzees (Pan); gibbons (Hylobates); gorillas (Gorilla); orangutans (Pongo); and siamangs (Symphalangus).
 - (3) Baboons (Papoi, Mandrillus).
 - (4) Bears (Ursidae).
 - (5) Bison (Bison).
 - (6) Cheetahs (Acinonyx jubatus).
 - (7) Crocodilians (Crocodilia), thirty (30) inches in length or more.
 - (8) Constrictor snakes, six (6) feet in length or more.
 - (9) Coyotes (Canis latrans).
 - (10) Deer (Cervidae); includes all members of the deer family; for example, whitetailed deer, elk, antelope and moose.
 - (11) Elephants (Elephas and Loxodonta).
 - (12) Game cocks and other fighting birds.
 - (13) Hippopotami (Hippopotamidae).
 - (14) Hyenas (Hyaenidae).
 - (15) Jaguars (Panthera onca).
 - (16) Leopards (Panthera pardus).
 - (17) Lions (Panthera leo).
 - (18) Lynxes (Lynx).
 - (19) Monkeys, old world (Cercopithecidae).
 - (20) Ostriches (Struthio).
 - (21) Piranha fish (Characidae).
 - (22) Pumas (Felis concolor); also known as cougars, mountain lions and panthers.
 - (23) Rhinoceroses (Rhinocero tidae).
 - (24) Sharks (class Chondrichthyes).
 - (25) Snow leopards (Panthera uncia).
 - (26) Tigers (Panthera tigris).
 - (27) Wolves (Canis lupus).
 - (28) Poisonous insects.
 - (29) Except in properly zoned districts, horses, mules, ponies, donkeys, cows, pigs,

goats, sheep, chickens or any animal raised for fur-bearing purposes unless otherwise permitted elsewhere in this Code.

- (d) Exceptions; Pet Shops.** The prohibitions of Subsection (c) above shall not apply where the 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.

Sec. 7-1-13 Sale of Rabbits, 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) (1) 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.
(2) No retailer, as defined in Sec. 100.30(2)(g), Wis. State., 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. 951.11, Wis. Stats.

Sec. 7-1-14 Providing Proper Food and Drink to Confined Animals.

- (a) No person owning or responsible for confining or impounding any 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. 951.13, Wis. Stats.

Sec. 7-1-15 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. 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 standards 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. 951.14, Wis. Stats.

Sec. 7-1-16 Neglected or Abandoned Animals.

- (a) **Neglected or Abandoned Animals.**
 - (1) No person may abandon any animal.
 - (2) Any law enforcement or humane 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 the killing of such animal unless he shall prove that such killing was unwarranted.
 - (5) Section 951.16, Investigation of Cruelty Complaints, and Sec. 951.17, Wis. Stats., Expenses of Investigation, are hereby adopted by reference and made a part of this Chapter.
- (b) **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 951.16 and 951.17, Wis. Stats.

Sec. 7-1-17 Cruelty to Animals and Birds 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 or bird or disturb any bird's nests or bird's eggs.
- (b) **Leading Animals 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 earning 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.

Sec. 7-1-18 Trapping of Animals.

- (a) In the interest of public health and safety, it shall be unlawful for any person, in or on land within the Village of Fredonia, except on parcels zoned agricultural, to set, place or tend any trap for the purpose of trapping, killing, catching, wounding, worrying or molesting any animal, except by use of live box-type traps only. Live box-type traps shall be defined as those traps, which capture and hold an animal in an alive and unharmed condition.
- (b) This Section shall prohibit the use of all traps other than live traps as described above, including, but not limited to, traps commonly known as leg traps, pan-type traps or other traps designed to kill, wound or close upon a portion of the body of an animal.
- (c) All such traps set, placed or tended shall comply with Chapter 29 of the Wisconsin Statutes as they relate to trapping.
- (d) This Section shall not apply to trapping within the confines of buildings or homes.
- (e) Nothing in this Section shall prohibit or hinder the Village of Fredonia or its employees or agents from performing their official duties.

Sec. 7-1-19 Dognapping and Catnapping.

No person may take the dog or cat of another from one place to another without the owner's consent or cause such a dog or cat to be confined or carried out of the Village or held for any purposes 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.

Sec. 7-1-20 Limitation on Number of Dogs and Other Pets.

- (a) **Purpose.** 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) **Number Limited.**
 - (1) No family shall own, harbor or keep in its possession more than three (3) dogs, Three (3) cats or a total of five (5) animals, (dogs, cats or rabbits), whichever is more restrictive, in any residential unit, except that a litter of pups, or kittens, or a portion of a litter, may be kept for not more than sixteen (16) weeks from birth.

Sec. 7-1-21 Regulating Domestic Fowl

(a) **Purpose and Intent.** The purpose of this section is to outline conditions under which village residents may safely keep or maintain a limited number of chickens, to assure appropriate chicken coops or structures in which to house chickens, and to protect the health, safety, and welfare of the general population of the Village of Fredonia.

(b) **Definitions.** For the purpose of this Section, the following terms have the meaning indicated:

- 1) Abutting Property – All property that abuts an applicant's property at one or more points except public streets.
- 2) Rear Yard – Rear yard shall be defined the same as Village of Fredonia Zoning Code Section 13-1-280 (147).
- 3) Chicken – Chicken shall mean a female hen of any age, including chicks. This definition does not include other kinds of fowl including but not limited to ducks, quail, pheasant, geese, turkeys, guinea hens, peacocks, emus, or ostriches.
- 4) Coop – Coop shall mean an enclosed structure, building or pen within which chickens roost or are housed.

(c) **Keeping of Chickens.** Chickens may be kept or maintained upon the following:

- 1) Up to six (6) chickens may be raised within a lot zoned Single Family Residential or Two Family Residential upon notification of all abutting property owners.
- 2) Rental tenants of a single family dwelling or a two family dwelling shall abide by the rules set forth in Section E herein, and shall obtain the written approval of their landlord prior to the keeping or maintaining of chickens on the rental premise. The landlord's written approval must accompany the applicant's permit application.
- 3) Educational facilities are allowed to keep chickens for educational purposes only.
- 4) Chickens may be allowed in the local veterinarian's office for the purpose of observation or treatment.
- 5) In addition to six (6) adult chickens, newly hatched chickens (chicks) living in a brooder may be kept in a residence or outbuilding up to the age of three (3) weeks.

(d) **Chickens are Not Allowed.** Chickens are not allowed to be kept or maintained upon the following:

- 1) Mobile home parks.
- 2) Vacant lots unless the person requesting the permit resides on the abutting property and the coop cannot be easily seen from the street.
- 3) Any property zoned Multi-Family Residential.
- 4) Condominiums.
- 5) The keeping of chickens in any non-residential district will only be allowed with the special approval of the Village Board.

(e) **Permit Required.**

- 1) No owner or tenant shall own, keep or maintain chickens within the corporate limits of the Village without first obtaining a permit.
- 2) The applicant for a permit must notify all abutting property owners of their intent to keep or maintain chickens prior to applying for a permit and the permit application must certify that all such property owners have been notified. A list

of all property owners and their addresses must be included with the permit application. No permit to keep or maintain chickens shall be issued unless all requirements are met.

- 3) The above requirements shall not be required for renewal of a permit as long as the permit is kept current.
- 4) The permit shall be renewed annually. The permit year shall commence on January 1, and shall end on the following December 31. For the calendar year 2012 only, the permit will be valid from date of issuance through December 31, 2013.
- 5) A permit granted shall not transfer to any other property or successor owners of permitted property unless all provisions of this section are met.

(f) Fees.

- 1) The annual fee for keeping and maintaining up to six chickens shall be \$15.00 and must be paid to the Village Clerk at the time of application. This fee shall not be prorated. Amendments to the annual permit fee may be made by Board resolution.
- 2) All renewal permits are due and payable to the Village no later than January 31st of the permit year, or prior to keeping the chickens, whichever is later. Failure to timely renew and pay will result in forfeiture of the permit. Upon forfeiture an applicant shall be required to meet all initial requirements as set forth in Section E above.

(g) Property Requirements.

- 1) A coop and any attached enclosure shall be not less than ten feet (10') from any lot line, shall be located in the rear yard of the permit holder's residence, and shall meet all other applicable requirements for Accessory Buildings as set forth in the Village of Fredonia Zoning Code.
- 2) A coop and any attached enclosure shall not be closer than twenty-five (25') to an abutting residence in addition to the restrictions in paragraph (1) above.
- 3) A coop may not be located closer to a neighboring residence than to the residence located upon the coop's parcel.

(h) Coop Design.

- 1) All chickens shall be kept and maintained within a ventilated and roofed coop constructed of sturdy, predator-proof material in compliance with any applicable state and Local requirements.
- 2) All coops, including an attached coop enclosure, shall be enclosed with wire netting or equivalent material that will prevent chickens from escaping the coop or the attached enclosure.
- 3) The coop structural floor shall allow at least six (6) square feet per chicken, and the height of the coop shall not exceed eight (8) feet above ground level.
- 4) The coop shall have a clear open space to allow the chickens to walk on the ground or a concrete slab.

(i) Any Person Keeping Chickens.

- 1) Shall keep or maintain chickens within a coop or attached coop enclosure at all times.
- 2) Shall not keep or maintain any roosters or male chickens older than ten (10) weeks.

- 3) Shall not sell any eggs.
 - 4) Shall not slaughter any chickens on the premises.
 - 5) Shall ensure that chickens are provided with access to feed and clean water at all times.
 - 6) Shall consult with a veterinarian regarding chickens that appear ill, or on the occasion of a sudden death. If a disease that would be contagious to humans is diagnosed, recommendations to prevent the transmission of a disease or its recurrence must be followed as recommended by the veterinarian.
- (j) Sanitation.**
- 1) Chickens and their coops shall be kept and maintained at all times in outdoor areas and shall not be permitted inside a residential premise or dwelling, except as provided in Section 1, paragraph (c)(5).
 - 2) Chicken feed shall be stored and kept in containers, which make the feed inaccessible to rodents, vermin, wild birds, and other predators.
 - 3) All coops and rear yards where chickens are kept or maintained shall be reasonably free from chicken produced substances including but not limited to chicken manure such that the air or environment around the chickens does not become noxious or offensive or create a condition that would reasonably promote the breeding of flies, mosquitoes, or other insects, or provide a habitat, breeding or feeding place for rodents or other animals, or otherwise be injurious to public health.
- (k) Inspection.** The Village shall have the power, whenever it may deem reasonably necessary, to enter a building, structure, or property where chickens are kept to ascertain whether the keeper is in compliance with this Section. The Village Marshal may issue compliance orders and citations pursuant to the provisions of this Section, and State law.
- (l) Enforcement.** The Village shall revoke a permit to keep chickens in the event that the Village Marshal has issued three (3) or more violations of this ordinance within any six (6) month period.
- (m) Penalty.** Any person, firm or corporation who shall violate any provisions of this ordinance, shall, upon conviction thereof, forfeit \$10.00 per day from the date the citation is issued.
- (n) Restricted Covenants.** This ordinance is not intended to interfere with any restrictive covenants otherwise applicable.

Sec. 7-1-22 Penalties.

- (a) Any person violating Sections 7-1-14, 7-1-15, 7-1-16, 7-1-17, 7-1-18, 7-1-19, or 7-1-20 shall be subject to a forfeiture of not less than Fifty Dollars (\$50.00) and not more than Two Hundred Dollars (\$200.00). 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.
- (b) Anyone who violates Sections 7-1-1, 7-1-2, 7-1-3, or 7-1-4 of this Code of Ordinances or Chapter 174, Wis. Stats., shall be subject to a forfeiture of not less than Twenty-five Dollars (\$25.00) and not more than Two Hundred Dollars (\$200.00) for the first offense

and not less than One Hundred Dollars (\$100.00) and not more than Four Hundred Dollars (\$400.00) for any subsequent offenses.

- (c) Any person who violates Sections 7-1-5 through 7-1-13 of this Code of Ordinances shall be subject to a forfeiture of not less than Twenty-five Dollars (\$25.00) and not more than One Hundred Dollars (\$100.00) for the first violation and not less than Fifty Dollars (\$50.00) and not more than Two Hundred Dollars (\$200.00) for subsequent violations.

Chapter 2

Article A Fermented Malt Beverages and Intoxicating Liquor

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Article A: Fermented Malt Beverages and Intoxicating Liquor

Sec. 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 regulations of alcohol beverage control.

State Law Reference: Chapter 125, Wis. Stats.

Sec. 7-2-2 Definitions.

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

Sec. 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 purpose 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.

Sec. 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 Clerk-Treasurer 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 Clerk-Treasurer 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.
- (1) **Reserve Retail “Class B” Intoxicating Liquor License.** A reserve retail “Class B” intoxicating liquor license, when issued by the Village Clerk-Treasurer 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 Clerk-Treasurer 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 Clerk-Treasurer 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 percentum of alcohol 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 wholesalers.
- (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 Clerk-Treasurer 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., or 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 a license shall be signed by the president of corresponding officer of the society or association making such application and shall be filed with the Village Clerk-Treasurer 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’s License.** A wholesaler’s fermented malt beverage license, when issued by the Village Clerk-Treasurer 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 wholesaler.
- (h) **Retail “Class C” Licenses.**
- (1) In this Subsection “barroom” means a room that is primarily used for the sale or consumption of alcohol beverages.
 - (2) A “Class C” license authorizes the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold.
 - (3) A “Class C” license may be issued to a person qualified under Sc. 125.04(5), Wis. Stats., for a restaurant in which the sale of alcohol beverages accounts for less than fifty percent (50%) of gross receipts and which does not have a barroom if the municipality’s quota prohibits the municipality from issuing a “Class B” license to that person. A “Class C” license may not be issued to a foreign corporation or person acting as agent for or in the employ of another.
 - (4) A “Class C” license shall particularly describe the premises for which it is issued.

Cross Reference: Section 7-2-17.

Sec. 7-2-5 License Fees.

There shall be the following classes of licenses which, when issued by the Village Clerk-Treasurer 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 or traffic in intoxicating liquors or fermented malt beverages as provided in Section 7-2-4 of the 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 Seventy-five Dollars (\$75.00). 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 Beverages Retailer’s License.** The annual fee for this license shall be One Hundred Dollars (\$100.00). 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. 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.

- (c) **Temporary Class “B” Fermented Malt Beverage License.** The fee for this license shall be Ten Dollars (\$10.00) per event.
- (d) **Temporary “Class B” Wine License.** The fee for this license shall be Ten Dollars (\$10.00) 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 Twenty-five Dollars (\$25.00).
- (f) **“Class A” Intoxicating Liquor Retailer’s License.** The annual fee for this license shall be Two-Hundred Seventy-five Dollars (\$275.00).
- (g) **“Class B” Intoxicating Liquor Retailer’s License.** The annual fee for this license shall be Three Hundred Dollars (\$300.00). 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.
- (g)(1) **Reserve “Class B” Intoxicating Liquor Retailer’s License.** The fee for the issuance of a reserve “Class B” intoxicating liquor license shall be \$10,000. This fee is in addition to the annual fee required under Section 7-2-5(g). The annual fee for renewal of a reserve “Class B” license is the fee established in Section 7-2-5(g).
- (g)(2) The village finds that the ten thousand dollar (\$10,000.00) fee mandated by the laws of the state exceed the actual cost of licensing the activity, thereby generating additional revenue for the village and it is in the interests of the public welfare to use this additional revenue to increase the property tax base, to improve the interior or exterior of the licensed premise, provide employment opportunities, attract tourists and generally enhance the economic and cultural climate of the community by providing additional economic incentives for new businesses with liquor licenses.
- (g)(3) After the granting of any new Reserve Class B license and payment of the ten thousand dollar (\$10,000.00) initial issuance fee, the applicant may file an application for an economic development grant of ten thousand dollars (\$10,000.00) with the village clerk. The village clerk shall forward the application to the Economic Development Committee who will determine whether the licensee is operating in compliance with the approved license. If the Economic Development Committee determines that the licensee is so operating, the committee shall authorize the approval of an economic development grant of ten thousand dollars (\$10,000.00). If the Economic Development Committee determines that the licensee is not in compliance with the approved license, no economic development grant may be authorized and the committee shall make such finding in writing and cause to be delivered a copy of the findings to the licensee. If the licensee disagrees with the committee’s determination, the licensee may file a written notice of appeal with the clerk within ten calendar days of delivery of the written notice of the committee’s findings. Upon receiving such notice from the licensee, the clerk shall relay the notice to the village board, which shall hold a hearing. The village board may affirm or reverse the committee’s determination. If the committee’s determination is upheld, appeal may be taken to circuit court pursuant to Section 753.04, Wisconsin Statutes. If

the committee's determination is reversed, the village board shall authorize payment of the economic development grant.

- (h) **"Class C" Wine License.** The annual fee for this license shall be Seventy-five Dollars (\$75.00). The fee for less than twelve (12) months shall be prorated.

Sec. 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 Secs. 887.01 to 887.04, Wis. Stats., and shall be filed with the Village Clerk-Treasurer 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 Clerk-Treasurer shall publish each application for a Class "A", Class "B", "Class A", "Class B", or "Class C" license. There is no publication requirement for temporary Class "B" picnic beer licenses under Sec. 125.51(10), Wis. Stats. The application shall be published once in the 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 issuing authority a notice in writing of such change within ten (10) days after the occurrence thereof.
- (e) **License Quotas.** The number of persons and places that may be granted a retail "Class B" liquor license under this Section is limited as provided in Chapter 125, Wis. Stats., to six (6).

Sec. 7-2-7 Qualifications of Applications and Premises

- (a) **Residence Requirements.** A retail Class "A" or Class "B" fermented malt beverage or "Class A" or "Class B" intoxicating liquor license shall be granted only to persons who are citizens of the United States and who have 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 he 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 qualification under Sec. 125.04(a)2. The requirement that the corporation meet the qualifications under Sec. 125.04(a)a and (b) does not apply if the corporation has terminated its relationship with all of the individuals whose actions directly contributed to the conviction.

- (2) Each corporate applicant shall file with its application for such license a statement by its officers showing the names and addresses of the persons who are stockholders together with the amount of stock held by such person or persons. It shall be the duty of each corporate applicant and Licensee to file with the Village Clerk-Treasurer a statement of transfers of stock within forty-eight (48) hours after such transfer of stock.
 - (3) Any license issued to a corporation may be revoked in the manner and under the procedure established in Sec. 125.12, Wis. Stats., when more than fifty percent (50%) of the stock interest, legal or beneficial, in such corporation is held by any person or persons no eligible for a license under this Chapter or under the state law.
- (f) **Sales Tax Qualification.** 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.
- (g) **Connecting Premises.** Except in the case of hotels, no person may hold both a "Class A" license and either a "Class B" license or permit, a Class "B" license or permit, or a "Class C" license for the same premises or for connecting premises. Except for hotels, if either type of license or permit is issued for the same connecting premises already covered by the other type of license or permit, the license or permit last issued is void. If both licenses or permits are issued simultaneously, both are void.
- (h) **Limitations on Other Business; Class "B" Premises.** No Class "B" license or permit may be granted for any premises where any other business is conducted in connection with the premises, except that this restriction does not apply if the premises for which the Class "B" license or permit is issued is connected to premises where other business is conducted by a secondary doorway that serves as a safety exit and is not the primary entrance to the Class "B" premises. No other business may conducted on premises operating under a Class "B" license or permit. These restrictions do not apply to any of the following:
- (1) A hotel.
 - (2) A restaurant, whether or not it is a part of or located in any mercantile establishment.
 - (3) A combination grocery store and tavern.
 - (4) A combination sporting goods store and tavern in towns, villages and 4th class cities.
 - (5) A combination novelty store and tavern.
 - (6) A bowling alley or recreation premises.
 - (7) A club, society or lodge that has been in existence for six (6) months or more prior to the date of filing application for Class "B" license or permit.

Sec. 7-2-8 Investigation.

The Village Clerk-Treasurer shall notify the Village Marshal, Fire Inspector and Building 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 Clerk-Treasurer 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.

Sec. 7-2-9 Approval of Application.

- (a) No license shall be granted for operation on any premises or with any equipment for which taxes, assessments, forfeitures or other financial claims of the Village are delinquent and unpaid.
- (b) No license shall be issued unless the premises conform to the sanitary, safety and health requirements of the State Building Code, and the regulations of the State 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 applicants;
 - (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. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two (2) offenses which are substantially related to the licensed activity within the five (5) years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the Village Board, the Village Board reserved the right to consider the severity, and facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the Board, at its discretion may, based upon an arrest or conviction record of two (2) or more offenses which are substantially related to the licensed activity within the five (5) years immediately preceding, act to suspend such license for a period of one (1) year or more.

Sec. 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 Clerk-Treasurer 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 or fraction of the year.
- (b) If the Village Board denies the license, the applicant shall be notified in writing, by registered mail or personal service, of the reasons for denial. The notice shall also inform the applicant of the opportunity to appear before the Village Board and to provide evidence as to why the denial should be reversed. In addition, the notice shall inform the applicant that the reconsideration of the application shall be held in closed session, pursuant to Sec. 19.85(1)(b), Wis. Stats., unless the applicant requests such reconsideration be held in open session and the Village Board consents to the request. Such written notice shall be mailed or served upon the applicant at least ten (10) days prior to the Village Board meeting at which the application is to be reconsidered.

Sec. 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 premise 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 Clerk-Treasurer. Proceedings for such transfer shall be had in the same form and manner as the original application. The fee for such transfer is Ten Dollars (\$10.00). Whenever a license is transferred, the Village Clerk-Treasurer shall forthwith notify the Wisconsin Department of Revenue of such transfer. 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 Clerk-Treasurer written notice of said replacement, the reasons therefore and the new appointment. Until the next regular meeting or special meeting of the Village Board, the successor agent shall have the authority to perform the functions and be charged with the duties of the original agent. However, said license shall cease to be in effect upon receipt by the Village Clerk-Treasurer 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 appointed and approved by the Village.

Sec. 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.

Sec. 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 is upon premises other than those mentioned in the application or knowingly to deface or destroy such license.

Sec. 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 law enforcement 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” licenses shall employ any underage person, as defined in the Wisconsin Statutes, but this shall not apply to hotels and restaurants. Family members may work on the licensed premises but are not permitted to sell or dispense alcoholic beverages.
- (c) **Disorderly Conduct Prohibited.** Each licensed premises shall, at all times, be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.
- (d) **Licensed Operator on Premises.** There shall be upon premises operated under a “Class B”, Class “B”, or “Class C” license, at all times, the Licensee, members of the Licensee’s immediate family who have attained the legal drinking age, 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”, Class “B”, or “Class C” license unless he possesses an operator’ license, or there is a person with an operator’s license upon said premises at the time of such service.
- (e) **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 or “Class C” licenses issued under this Chapter. No “Class B” or “Class C” license shall be issued unless the premises to be license conform to such rules and regulations.
- (f) **Restrictions Near Schools 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 maintenance 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.

- (g) **Clubs.** No club shall sell or give away any intoxicating liquors except to bona fide members and guests invited by members.
- (h) **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 of the laws of the State of Wisconsin.
- (i) **Credit Prohibited.** No retail Class “A”, Class “B”, “Class A”, “Class B”, or “Class C” liquor, wine or fermented malt beverage Licensee shall sell or offer for sale any alcohol beverage to any person or persons by extending credit, except hotel credit extended to a

resident guest or a club to a bona fide member. It shall be unlawful for such Licensee or permittee to sell alcohol beverages to any person on a passbook or store order or to receive from any person any goods, ware, merchandise or other articles in exchange for alcohol beverages.

- (j) **Licensee or Permittee Responsible for Acts of Help.** 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 for the suspension or revocation of the license or permit of the holder thereof may be instituted in the manner prescribed in this Chapter.
- (k) **Improper Exhibitions.** It shall be unlawful for any person to perform, or for any Licensee or manager or agent of the Licensee to permit any employee, entertainer or patron to engage in any live act, demonstration, dance or exhibition on the licensed premises which:
 - (1) Exposes his or her genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or
 - (2) Exposes any device, costume or covering which gives the appearance of or simulates genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or
 - (3) Exposes any portion of the female breast at or below the areola thereof; or
 - (4) Engages in or simulates sexual intercourse and/or any sexual contact, including the touching of any portion of the female breast or the male and/or female genitals.

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

Sec. 7-2-15 Closing Hours.

Closing hours shall be established in conformance with Sec. 125.32(3), Wis. Stats

Sec. 7-2-16 Restrictions on Temporary Fermented Malt Beverages 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 Fredonia, 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 11-4-1.
- (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 identifications.
- (c) Fencing.**
 - (1) If necessary due to the physical characteristics of the site, the Village Board may 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.
 - (2) For indoor events, the structure used shall have suitable exits and open spaces to accommodate anticipated attendance. It should contain adequate sanitary facilities to accommodate the size of the group.
- (d) Underage Persons Prohibited.** No underage persons as defined by Wisconsin Statutes shall be allowed to assist in the sale of fermented malt beverages or wine at any point of sale, nor shall they be allowed to loiter or linger in the area of any point of sale.
- (e) Licensed Operators Requirements.** A licensed operator shall be stationed at all points of sales at all times.

- (f) **Waiver.** The Village Board may waive or modify the requirements of this Section due to the physical characteristics of the licensed site.
- (g) **Insurance.** The applicant for a temporary fermented malt beverage or wine license may be required to indemnify, defend and hold the Village and its employees and agents harmless against all claims, death of any persons 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 license, the applicant may be required to furnish a Certificate of Comprehensive General Liability insurance with the Village of Fredonia. The applicant may be required to furnish a performance bond prior to being granted the license.
- (h) **Glass Containers.** Intoxicants will be sold outdoors only in non-glass containers.

Cross Reference: Section 11-4-1.

Sec. 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 Title 11, Chapter 4, of this Code of Ordinances, proceedings for the revocation of such license may be instituted in the manner and under the procedure established by this Section.
- (b) **Abandonment of Premises.** Any Licensee holding a license to sell alcohol beverages who abandons such business shall forfeit any right or preference he may have to the holding of or renewal of such license. The losing 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) **License Revocation or Suspension.** License revocation or suspension procedures shall be prescribed by Chapter 125, Wis. Stats.

Sec. 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 (8:30 a.m. to 4:30 p.m., Monday through Friday) and shall be given on forms prescribed by the Village. After a non-alcohol event notice has been given, the Licensee may cancel an event(s) only by giving like notice to the Police Department in accordance with the provisions of this Subsection. Regardless of the date given, all notices shall expire and be deemed

cancelled no later than the date of expiration or revocation of the applicable retail Class “B”, “Class B” or “Class C” license.

- (b) During the period of any non-alcohol event a notice card shall be posted by the owner 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 Village 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 direct and immediate control and supervision of the Licensee or a licensed bartender in the employ of the Licensee. All beer taps and automatic dispensers of alcohol beverages (“speed guns”) shall be either disconnected, disabled or made inoperable.

Sec. 7-2-19 through Sec. 7-2-29 Reserved for Future Use.

Article B: Operator’s License

Sec. 7-2-30 Operator’s License Required.

- (a) **Operator’s Licenses; Class “A”, Class “B” or “Class C” 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”, Class “B”, or “Class C” 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. 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”, Class “B”, or “Class C” 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 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 license or permit of a person who violates Subsection (b)(1) above shall be revoked.

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

Sec. 7-2-31 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 Clerk-Treasurer 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 Village Marshal 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 investigating authority 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, the investigating authority shall recommend, in writing, to the Village Board approval or denial of the application. If the investigating authority recommends denial, the investigating authority shall provide, in writing, the reasons for such recommendation.

Sec. 7-2-32 Duration.

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

Sec. 7-2-33 Operator's License Fee; Provision or Licenses.

- (a) **Fee.** The fee for an operator's license shall be Fifteen Dollars (\$15.00) for the term or part thereof. The fee for a provisional license shall be Five Dollars (\$5.00). There shall be no fee for a temporary operator's license.
- (b) **Provisional License.** The Village Clerk-Treasurer 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 Marshal shall submit to the Clerk-Treasurer a report regarding the applicant's conviction history, if any. The applicant for such provisional license must present evidence to the Clerk-Treasurer establishing that the applicant is enrolled in an Alcohol Awareness Training Program established pursuant to Sec. 125.17(1), Wis. Stats. The Village Clerk-Treasurer may, upon receiving an application for a provisional license, issue such a license without requiring the successful completion of the approved program as described herein. However, such 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, and the applicant shall also apply for a regular operator's license. A provisional license may not be issued to any person who has been denied an operator's license by the Village Board, who has had his operator's license revoked or suspended within the preceding twelve (12) months, or who previously held an operator's license and who failed to complete the Alcohol Awareness Training Program without first successfully completing the program. The Village Clerk-Treasurer shall provide an appropriate application form to be completed in full by the applicant. The Village Clerk-Treasurer may revoke the

provisional license issued if he discovers that the holder of the license made a false statement on the application. A provisional license shall not be renewed.

- (c) **Temporary License.** The Clerk-Treasurer may issue a temporary operator's license provided that:

- (1) This license may be issued only to operators employed by, or donating their services to, nonprofit corporations.
- (2) No person may hold more than one (1) license of this kind per year.
- (3) The license is valid for any period from one (1) day to fourteen (14) days, and the period for which it is valid shall be stated on the license.

Sec. 7-2-34 Issuance or Denial of Operator's Licenses.

- (a) After the Village Board approves the granting of an operator's license, the Village Clerk-Treasurer shall issue the license. Such licenses shall be issued and numbered in the order they are granted and shall give the applicant's name and address and the date of the expirations of such license.
- (b)
- (1) If the application is denied by the Village Board, the Village Clerk-Treasurer shall, in writing, inform the applicant of the denial, the reasons therefore, and of the opportunity to request a reconsideration of the application by the Village Board in a closed session. Such notice must be sent by registered mail to, or served upon, the applicant at least ten (10) days prior to the Board's reconsideration of the matter. At such reconsideration hearing, the applicant may present evidence and testimony as to why the license should be granted.
 - (2) If, upon reconsideration, the Board again denies the application, the Village Clerk-Treasurer shall notify the applicant in writing of the reasons therefore. An applicant who is denied any license upon reconsideration of the matter, may apply to Circuit Court pursuant to Sec. 125.12(2)(d), Wis. Stats., for review
- (c)
- (1) Consideration for the granting or denial of a license will be based on:
 - a. Arrest and conviction record of the applicant, subject to the limitations imposed by Secs. 111.321, 111.322, and 111.335 Wis. Stats.;
 - b. The financial responsibility of the applicant; and
 - c. Generally, the applicant's fitness for the trust to be reposed.
 - (2) If a Licensee is convicted of an offense substantially related to the licensed activity, the Village Board may act to revoke or suspend the license.
- (c) An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two (2) offenses which are substantially related to the licensed activity within the five (5) years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the Village Board, the Village Board reserves the right to consider the severity, and facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the Village Board, at its discretion, may, based upon an arrest or conviction record of two (2)

or more offenses which are substantially related to the licensed activity within the five (5) years immediately preceding, act to suspend such license for a period of one (1) year or more. Upon denial of an operator's license, such denial may be reconsidered by the Board upon the request of the applicant.

Sec. 7-2-35 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 a comparable training course that is approved by the educational approval board of unless the applicant fulfills one of the following requirements:
 - (1) The person is renewing an operator's license.
 - (2) Within the past two (2) years, the person held a Class "A", Class "B", "Class A", "Class B", or "Class C" 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.
- (c) The Village Board may not require that applicants for operators' licenses undergo training in addition to that under Subsection (a), but may require applicants to purchase, at cost, materials that deal with relevant local subjects not covered in the course under Subsection (a).

Sec. 7-2-36 Display of License.

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

Sec. 7-2-37 Revocation of Operator's License.

Violation of any of the terms of provisions of the State law or of this Chapter relating to operators' license shall be cause for revocation of the license.

Sec. 7-2-38 through Sec. 7-2-39 Reserved for Future Use.

Article C: Penalties

Sec. 7-2-40 Penalties.

- (a) Forfeitures for violations of Secs. 125.07(1)-(5) and 125.09(2) of the Wisconsin Statutes, adopted by reference in Section 7-2-1 of the Code of Ordinances of the Village of

Fredonia, shall conform to the forfeiture penalty permitted to be imposed for the violations of the comparable State Statute, including any variations or increases for subsequent offenses.

- (b) Any person who shall violate any provisions of this Chapter of the Code of Ordinances of the Village of Fredonia, except as otherwise provided in Subsection (a) herein or who shall conduct any activity or make any sale for which a license is required without a license, shall be subject to a forfeiture as provided in the general penalty section of this Code of the Village of Fredonia.
- (c) Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes.

Chapter 3

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 therefore, 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 Clerk-Treasurer a written application therefore, stating the name of the person and the place for which such license is desired. Each license shall be filed by the Village Clerk-Treasurer 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 Clerk-Treasurer a license fee of Twenty-five Dollars (\$25.00).
- (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 therefore shall be issued by the Village Clerk-Treasurer. 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 the 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.

Chapter 4

Transient Merchants

- 7-4-1** Registration Required
- 7-4-2** Definitions
- 7-4-3** Exemptions
- 7-4-4** Registration
- 7-4-5** Investigation
- 7-4-6** Appeal

- 7-4-7 Regulation of Transient Merchants
- 7-4-8 Records
- 7-4-9 Revocation of Registration

Sec. 7-4-1 Registration Required.

It shall be unlawful for any transient merchant, direct seller or charitable solicitor to engage in direct sales or solicitation activities within the Village of Fredonia without being registered for that purpose as provided herein.

Sec. 7-4-2 Definitions.

In this Chapter:

- (a) **Transient Merchant.** Any individual who engages in the retail sale of merchandise at any place in this state temporarily, and who does not intend to become a permanent merchant of such place. For purposes of this Section, sale of merchandise includes a sale in which the personal services rendered upon or in connection with the merchandise constitutes the greatest part of value for the price received. For purposes of this Chapter, the term “transient merchant” shall include direct sellers and solicitors seeking donations or funds for an organization, unless excepted.
- (b) **Permanent Merchant.** Any person 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 the local trade area among the communities bordering the place of sale: or
 - (2) Has continuously resided in the local trade area among the communities bordering the place of sale and now does business from his residence.
- (c) **Merchandise.** Personal property of any kind, and shall include merchandise, goods, or materials provided incidental to services offered or sold. The sale of merchandise includes donations required by the seller for the retention of merchandise by a donor or prospective customer.
- (d) **Charitable Organization.** Any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such.
- (e) **Clerk.** The Village of Fredonia Clerk or Deputy Clerk.
- (f) **Person.** All humans or any age or sex, partnerships, corporations, associations, groups, organizations and any other description of a collection of human beings working in concert of for the same purpose or objective.
- (g) **Solicitor.** Any person engaged in direct solicitation who:
 - (1) Seeks donations of money or other contributions of items of value for an organization or cause; or
 - (2) Sells items on behalf of an organization or cause but asks for a contribution of greater value than the item being sold.

Sec. 7-4-3 Exemptions.

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

- (a) **Regular Delivery Routes.** Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes;
- (b) **Wholesalers.** Any person selling merchandise at wholesale to dealers in such merchandise;
- (c) **Agricultural Products.** Any person selling agricultural products which the person has grown;
- (d) **Deliveries by Permanent Merchants.** Any permanent merchant or employee thereof who takes orders at the home of the buyer for merchandise regularly offered for sale by such merchant within this county and who delivers such merchandise in their regular course of business;
- (e) **Requested Home Visits.** Any person who has an established place of business where the merchandise 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) **Prior Sales Transactions.** 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) **Services Not Offering Merchandise.** Any person selling or offering for sale a service unconnected with the sale or offering for sale of merchandise;
- (h) **Auctions; Sales Authorized by Statute.** 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) **Charitable Organizations; Limited Exemption.** Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization shall be exempt from fees imposed by this Chapter, provided that there is submitted to the Clerk-Treasurer proof that such charitable organization is registered under Sec. 440.41, Wis. Stats., and the charitable solicitors register with the Village under this Chapter. Any charitable organization engaging in the sale of merchandise and not registered under Sec. 440.41, Wis. Stats., or which is exempt from that statute's registration requirements, shall be required to register under this Chapter.
- (j) **Alleged Transient Merchants.** Any person who claims to be a permanent merchant, but against whom complaint has been made to the Clerk-Treasurer that such person is a transient merchant, provided that there is submitted to the Clerk-Treasurer 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 this Village for at least one (1) year prior to the date complaint was made.
- (k) **Persons Licensed by Examining Boards.** Any individual licensed by an examining board as defined in Sec. 15.01(7), Wis. Stats.
- (l) **Village Authorized Events.** This Chapter does not apply to transient merchants while doing business at special events authorized by the Village Board.
- (m) **Resident Minor.** Minors under the age of eighteen (18) who are residents of the Northern Ozaukee School District.

Sec. 7-4-4 Registration.

(a) Registration Information. Applicants for registration must complete and return to the Clerk-Treasurer a registration form furnished by the Clerk-Treasurer 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 transient merchant 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 merchandise offered or any services offered;
- (6) Proposed method of delivery of merchandise, 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, towns, 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) Identification and Certification. Applicants shall present to the Clerk-Treasurer for examinations:

- (1) A driver's license or some other proof of identity as may be reasonably required;
- (2) A state certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighting and measuring devices approved by state authorities.
- (3) A state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than ninety (90) days prior to the date the application for license is made.

(c) Registration Fee.

- (1) At the time of filing applications, a total fee of Twenty Dollars (\$20.00) shall be paid to the Clerk-Treasurer to cover the cost of investigation of the facts stated in the applications and for processing said registration. Every member of a group must file a separate registration form. The primary applicant shall pay an Eighteen Dollar (\$18.00) registration fee plus a Two Dollar (\$2.00) CIB investigation fee; each assistant under the application shall also be required to pay the Two Dollar (\$2.00) CIB fee.
- (2) The applicant shall sign a statement appointing the Clerk-Treasurer his agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant, in the event the applicant cannot, after reasonable

effort be served personally. Registration may be denied upon failure to comply with this Subsection.

- (3) Upon payment of said fee and the signing of said statement, the Clerk-Treasurer shall register the applicant as a transient merchant and date the entry. Said registration shall be valid for a period of thirty (30) days from the date of entry, subject to subsequent refusal as provided in Sec. 7-4-5(b) below.

(d) **Solicitors.** Solicitors of funds or donations for charitable or other organizations shall comply with all disclosure and registration requirements above, but shall be exempt from the Eighteen Dollar (\$18.00) registration fee; such applicants, however shall each pay the Two Dollar (\$2.00) CIB fee.

Sec. 7-4-5 Investigation.

- (a) Upon receipt of each application, the Clerk-Treasurer may refer it immediately to the Village Marshal for an investigation of the statements made in such registration, said investigation to be completed within five (5) business days from the time of referral. (NOTE: This waiting period is necessary in order to complete the investigation process).
- (b) The Clerk-Treasurer shall refuse to register the applicant if it is determined, pursuant to the investigation above, that: the application contains any material omission or materially inaccurate statement; complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns, not exceeding three (3), in which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation or ordinance violation within the last five (5) years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or the applicant failed to comply with any applicable provision of Section 7-4-4(b) above.

Sec. 7-4-6 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 Secs. 68-07 through 68.16, Wis. Stats.

Sec. 7-4-7 Regulation of Transient Merchants.

(a) Prohibited Practices.

- (1) A transient merchant shall be prohibited from: calling at any dwelling or other place on Sundays or holidays or between the hours of 9:00 p.m. and 9:00 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 premise after being asked to leave by the owner, occupant or other person having authority over such premises.
- (2) A transient merchant shall not misrepresent or make false, deceptive or misleading statement concerning the quality, quantity or characteristics of any merchandise offered for sale, the purpose of his visit, his identity or the identity of the organization he represents. A charitable organization transient merchant

shall specifically disclose what portion of the sale price of merchandise 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 merchandise.

- (3) No transient merchant 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 transient merchant 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 transient merchant shall allow rubbish or litter to accumulate in or around the area in which he is conducting business.

(b) Disclosure Requirements.

- (1) After the initial greeting and before any other statement is made to a prospective customer, a transient merchant shall expressly disclose his name, the name of the company or organization he is affiliated with, if any, and the identity of merchandise or services he offers to sell.
- (2) If any sale of merchandise is made by a transient merchant or any sales order for the later delivery of merchandise is taken by the seller, the buyer shall have the right to cancel said transaction if it involved the extension of credit or is a cash transaction of more than Twenty-five Dollars (\$25.00), in accordance with the procedure as set forth in Sec. 423.203, Wis. Stats.; the seller shall give the buyer two (2) copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of Sections 423.203(1)(a)(b) and (c), (2) and (3), Wis. Stats.
- (3) If the transient merchant takes a sales order for the later delivery of merchandise, he shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance, whether full, partial or no advance payment is made, the name address and telephone number of the seller, the delivery or performance date and whether a guarantee or warranty is provided and, if so the terms thereof.

Sec. 7-4-8 Records.

The Village Marshal shall report to the Clerk-Treasurer all convictions for violations of this Chapter and the Clerk-Treasurer shall note any such violation on the record of the registrant convicted.

Sec. 7-4-9 Revocation of Registration.

- (a) Registration may be revoked by a Village law enforcement officer or Clerk-Treasurer 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) Provided a written request is filed with the Clerk-Treasurer within ten (10) days of such revocation, an appeals hearing shall be held before the Village Board or committee

thereof. Written notice of the hearing shall be served personally or pursuant to Section 7-4-4(c) 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.

Chapter 5

Sexually Oriented Businesses

- 7-5-1 Purpose and Findings
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7-5-1 Purpose and Findings

- (a) **Purpose:** It is the purpose of this Ordinance to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of citizens of the Village of Fredonia, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Village of Fredonia. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First

Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Ordinance to condone or legitimize the distribution of obscene material.

- (b) **Findings:** Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the Village, and on findings incorporated in the cases of *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres*, 426 U.S. 50 (1976), *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990), *Barnes v. Glen Theatre, Inc.* 501 U.S. 560 (1991), *City of Erie v. Pap's A.M.*, 120 S. Ct. 1382 (2000), *East of the River Enterprises II v. City of Hudson*, 2000 Wis. App. Lexis 734 (Ct. App. Aug. 1, 2000); *Ben's Bar, Inc. v. Town of Somerset*, ___ F.3d ___, 2003 WL 132541 (7th Cir. 2003), and on studies in other communities including, but not limited to: Phoenix, Arizona; Houston, Texas; Minneapolis, Minnesota; St. Paul, Minnesota; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; Beaumont, Texas; Dallas, Texas; Newport News, Virginia; Bellevue, Washington; New York, New York; and St. Croix County, Wisconsin; and the Report of the Attorney General's Working Group of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), and statistics obtained from the U.S. Department of Health and Human Services, Centers for Disease Control and Preventions, the Village Board finds that:

- (1) Sexually oriented businesses lend themselves to ancillary and unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make the owners of these establishments responsible for the activities that occur on their premises.
- (2) Certain employees of sexually oriented businesses, defined in this Ordinance as adult theaters and adult cabarets, engage in higher incidences of certain types of illicit sexual behavior than employees of other establishments.
- (3) Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented business, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows.
- (4) Offering and providing such space encourages such activities, which creates unhealthy conditions.
- (5) Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purposes of engaging in sex within the premises of such sexually oriented businesses.
- (6) At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses, including but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B, amebiasis, salmonella infections and shigella infections.
- (7) Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS (acquired immunodeficiency syndrome) caused by the HIV virus in the United States: 600 in 1982; 2,200 in 1983, 4,600 in 1984; 8,555 in 1985, and 253,448 through December 31, 1992.
- (8) The State of Wisconsin Division of Health indicated that on July 25, 1986, there were 96 cases of AIDS reported in the state, including 54 cases that resulted in

death and that a ten-fold increase in reported cases was expected between 1986 and 1991.

- (9) The number of cases of early (less than one year) syphilis in the United States reported annually has risen, with 33,613 cases reported in 1982, and 45,200 through November, 1990.
- (10) The number of cases of gonorrhea in the United States reported annually remains at a high level, with over one-half million cases being reported in 1990.
- (11) In his report of October 22, 1986, the Surgeon General of the United States has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components and from an infected mother to her newborn.
- (12) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.
- (13) Sanitary conditions in some sexually oriented businesses are unhealthy in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
- (14) Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view adult oriented films.
- (15) Crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where sexually oriented business are located.
- (16) Studies of the relationship between sexually oriented business and neighborhood property values have found a negative impact on both residential and commercial property values.
- (17) There is an increase in the potential for infiltration by organized crime for the purpose of unlawful conduct.
- (18) The consumption of alcoholic beverages on the premises of sexually oriented businesses exacerbated the deleterious secondary effects of such businesses on the community. In fact, the Supreme Court has gone so far as to assert that "common sense indicates that any form of nudity coupled with alcohol begets undesirable behavior." Ben's Bar, 2003 WL 132541, *19 (citations omitted).
- (19) Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect the substantial government concerns addressed in the above subsections.
- (20) A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place an incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety, and welfare of its patrons and employees, as well as the citizens of the Village. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.
- (21) The disclosure of certain information by those persons ultimately responsible for the day to day operation and maintenance of the sexually oriented business,

where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases.

- (22) In the prevention of the spread of communicable diseases, it is desirable to obtain a limited amount of information regarding certain employees who may engage in the conduct which this Ordinance is designed to prevent, or who are likely to be witnesses to such conduct.
- (23) The general welfare, health, and safety of the citizens of the Village of Fredonia will be promoted by the enactment of this Ordinance.

7-5-2 Definitions

- (a) “Adult Arcade” means any place to which the public is permitted or invited, wherein coin-operated or slug operated or electronically, electrically, or mechanically controlled or still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by their emphasis upon matters exhibiting “specified sexual activities” or “specified anatomical areas”.
- (b) “Adult Bookstore” or “Adult Video Store” means a commercial establishment that has as a significant or substantial portion of its stock-in-trade, or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising, or maintains a substantial section of its sales or display space for the sale or rental, for any form of consideration, of any one or more of the following:
 - (1) books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, slides or other visual representations, which are characterized by their emphasis upon the exhibition or display of “specified sexual activities” or “specified anatomical areas”; or
 - (2) instruments, devices or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of the user or others.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing “specified sexual activities” or “specified anatomical areas” and still be categorized as ADULT BOOKSTORE or ADULT VIDEO STORE so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe “specified sexual activities” or “specified anatomical areas”. A principal business purpose need not be a primary use of an establishment so long as it is a significant use based upon the visible inventory or commercial activity of the establishment.

This definition shall expressly exclude films, motion pictures, video cassettes, slides or other similar photographic reproductions given an “R” rating by the Motion Picture Association of America.

(c) “Adult Cabaret” means a nightclub, dance hall, bar, restaurant, or similar commercial establishment which regularly features:

- (1) persons who appear semi-nude; or
- (2) live performances that are characterized by the exposure of “specified sexual activities” or “specified anatomical areas”; or
- (3) films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the exhibition or display of “specified sexual activities” or “specified anatomical areas”.
- (4) This definition shall expressly exclude films, motion pictures, video cassettes, slides or other similar photographic reproductions given an “R” rating by the Motion Picture Association of America.

(d) “Adult Motel” means a hotel, motel or similar commercial establishment, which:

- (1) offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions, which are characterized by the depiction of “specified sexual activities” or “specified anatomical areas”; and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or
- (2) offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
- (3) allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

(e) “Adult Motion Picture Theater” means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”. This definition shall expressly exclude films, motion pictures, video cassettes, slides or other similar photographic reproductions given an “R” rating by the Motion Picture Association of America.

(f) “Adult Theater” means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear nude or semi-nude, or live performances which are characterized by the exposure of “specified sexual activities” or “specified anatomical areas”.

(g) “Board” means the Village Board for the Village of Fredonia, Ozaukee County, Wisconsin.

(h) “Directly” means to require physical contact. For instance, when this Ordinance prohibits an employee to receive a gratuity “directly” from a patron, it prohibits the direct touching of skin, other body parts or clothing.

- (i) “Distinguished” or “characterized by” means the dominant or principal theme of the object referenced. For instance, when the phrase refers to films “which are distinguished or characterized by an emphasis upon the exhibition or display of specified sexual activities or specified anatomical areas”, the films so described are those whose dominant or principal character and theme are the exhibition or display of “specified sexual activities” or “specified anatomical areas”.
- (j) “Employee”, “employ” and “employment” describe and pertain to any person who performs any service on the premises of a sexually oriented business on a full-time, part-time, or contract basis, regardless of whether the person is denominated as an employee, independent contractor, agent, or by another status. Employee does not include a person exclusively on the premises for repair or maintenance of the premises, or for the delivery of goods to the premises.
- (k) “Escort” means a person who, for consideration, and for another person, agrees or offers to privately model lingerie or to privately perform a striptease.
- (l) “Escort Agency” means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.
- (m) “Establish” or “establishment” means and includes any of the following:
 - (1) the opening or commencement of any sexually oriented business as a new business;
 - (2) the conversion of any existing business, whether or not a sexually oriented business, to any sexually oriented business;
 - (3) the addition of any sexually oriented business to any other existing sexually oriented business; or
 - (4) the relocation of any sexually oriented business.
- (n) “Licensee” means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.
- (o) “Nude”, “nudity” or “state of nudity”, means the showing of the human male or female genitals, pubic area, vulva or anus with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple or areola, or the showing of the covered male genitals in a discernibly turgid state.
- (p) “Operate” or “cause to be operated” means to cause to function or to put or keep in a state of doing business. “Operator” means any person on the premises of a sexually oriented business who is authorized to exercise operational control of the business, or who causes to function or who puts or keeps in operation the business. A person may be found to be operating or causing to be operated a sexually oriented business regardless of whether that person is an owner, part owner, or licensee of the business.
- (q) “Person” means an individual, proprietorship, partnership, corporation, association, or other legal entity.

- (r) "Premises" means the real property upon which the sexually oriented business is located, and all appurtenance thereto and buildings thereon, including, but not limited to the sexually oriented business the grounds, the private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control or supervision of the owner or operator of the business.
- (s) "Regularly features" or "regularly shows" means a consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as part of the ongoing business of the sexually oriented business.
- (t) "Semi-nude" or "semi-nude condition" means the showing of the human male or female genitals, pubic area, vulva or anus, with not more than a complete opaque covering, or the showing of the female breast with no more than a complete opaque covering of any part of the nipple or areola.
- (u) "Sexual encounter center" means a business or commercial establishment, that as one of its principal business purposes, offers for any form of consideration, a place where two (2) or more persons may congregate, associate, or consort for the purpose of "specified sexual activities". The definition of sexual encounter center or any sexually oriented business shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.
- (v) "Sexually oriented business" means an adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, or sexual encounter center.
- (w) "Specified Anatomical Areas" means
 - (1) the human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
 - (2) less than completely and opaquely covered human genitals, pubic region, vulva, anus or the nipple and areola of the human female breast; or
- (x) "Specified sexual activity" means:
 - (1) the fondling of another person's genitals, pubic region, anus, or female breasts;
 - (2) actual sex acts, normal or perverted, including intercourse, oral copulation, masturbation, or sodomy; or
 - (3) excretory functions as part of, or in connection with, any of the activities set forth in (1) through (2) above.
- (y) "Substantial enlargement" of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five percent, as the floor areas exist on the date this Ordinance takes effect.
- (z) "Transfer of ownership or control" of a sexually oriented business means and includes any of the following:

- (1) the sale, lease, or sublease of the business;
- (2) the transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
- (3) the establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

7-5-3 Classification.

“Sexually oriented businesses” are classified as follows:

- a. adult arcades;
- b. adult bookstores or adult video stores;
- c. adult cabarets;
- d. adult motels;
- e. adult motion picture theaters;
- f. adult theaters;
- g. escort agencies;
- h. sexual encounter centers.

7-5-4 License.

- (a) Except as provided in subsection (d) below, from and after the effective date of this Ordinance, no sexually oriented business shall be operated or maintained in the Village of Fredonia without first obtaining a license to operate issued by the Village of Fredonia and without all employees of the sexually oriented business first obtaining a sexually oriented business employee license issued by the Village of Fredonia.
- (b) A license may be issued only for (1) sexually oriented business located at one fixed and certain place. Any person, partnership, or corporation which desires to operate more than one sexually oriented business must have a license for each.
- (c) No licensee may transfer ownership or control of the sexually oriented business to any other person, partnership or corporation.
- (d) All sexually oriented businesses and sexually oriented business employees existing at the time of the passage of this Ordinance must submit an application for a license within sixty (60) days of the passing of this Ordinance.

7-5-5 Application for License

- (a) Any person, partnership or corporation desiring to secure a license shall submit an application to the Village Clerk. The application shall be filed in triplicate and dated by the Village Clerk. A copy of the application shall be distributed promptly by the Village Clerk to the Village Marshall and to the applicant.
- (b) If the Village Marshall is aware of any information bearing on the applicant's qualifications, that information shall be filed in writing with the Village Clerk.
- (c) An application for a license must be made on a form provided by the Village of Fredonia. All applicants must be qualified according to the provisions of this Ordinance.
- (d) An application shall be considered complete if it includes the information required in this Section.
- (e) An applicant for a license shall furnish the following information under oath:

(1) Name and address.

(2) Written proof that the individual is at least eighteen (18) years of age. Written proof of age may be in the form of either (i) a copy of a birth certificate and current photo, (ii) a current driver's license with picture, or (iii) other picture identification document issued by a governmental agency and demonstrating proof of age.

(3) The name, business location, business mailing address and phone number of the proposed sexually oriented business.

(4) If the application is for a sexually oriented business license, a statement as to whether the licensee of the sexually oriented business intends to serve, sell, use or provide any intoxicating liquor, cereal malt beverage or any type of alcoholic beverage on the premises of the sexually oriented business.

(5) If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the name, address and ages of all shareholders of the corporation owning more than five percent (5%) of the stock in said corporation and all officers and directors of the corporation, and the name and address of the registered agents.

(6) If the applicant is a partnership, joint venture, or any other type of organization where two (2) or more persons have a financial interest, the application shall state the names, addresses and ages of all persons having a financial interest in the partnership, joint venture or other type of organization.

(7) If the application is for a sexually oriented business license, a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business shall accompany the application for a sexually oriented business. The sketch or diagram need not be professionally prepared, but shall be drawn to a designated scale or drawn

with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

- (8) If the person who wishes to operate a sexually oriented business is an individual, he or she shall sign the application for a license as applicant. If the person who wishes to operate a sexually oriented business is other than an individual (such as a corporation or partnership), each officer, director, general partner, or other person identified in subsections (5) and (6) shall sign the application for a license as the applicant. Each applicant must be qualified under this section and each applicant shall be considered as a licensee if the license is granted.
- (f) Within thirty (30) days of receiving an application for a license, the Village Clerk shall notify the applicant whether the application is granted or denied.
- (g) Whenever an application is denied, the Village Clerk shall advise the applicant in writing of the reasons for such action. If the applicant requests administrative review of the decision within ten (10) days of receipt of notification of denial, an administrative review shall be held as hereinafter provided.
- (h) Failure or refusal of the applicant to give any information relevant to the application or his or her refusal to submit to or cooperate with regard to any information required by this Ordinance shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the Village Board.

7-5-6 Standards for Issuance of License.

- (a) The Village Board shall approve the issuance of a license unless one or more of the following is found to be true:
- (1) An applicant (including all individuals, officers, directors, shareholders, or persons with a financial interest in the organization) is less than eighteen (18) years of age.
 - (2) An applicant is delinquent in the payment owed to the Village of Fredonia of taxes, fees, fines or penalties assessed against or imposed upon the applicant in relation to a sexually oriented business.
 - (3) An applicant has failed to provide information as required in Section 7.5.5 for issuance of the license.
 - (4) The license application fee required by this Ordinance has not been paid.
 - (5) An applicant has falsely answered a question or request for information on the application form.
 - (6) The proposed sexually oriented business is not in compliance with the location restrictions established or physical layout restrictions established for sexually oriented businesses in this Ordinance.
 - (7) The applicant states or the Village Board subsequently discovers that the applicant intends to serve, sell, use or provide any intoxicating liquor, cereal malt beverages, or any type of alcoholic beverages on the premises of the sexually oriented business.

- (b) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the applicant, the expiration date, and the address of the sexually oriented business.

7-5-7 Fees.

A license fee of \$250.00 shall be submitted with the application for a sexually oriented business license. A license fee of \$100.00 shall be submitted with the application for a sexually oriented business employee license. If the application is denied, one-half (½) of the fee shall be returned. The remainder shall be applied toward processing and administrative costs.

7-5-8 Display of License.

The sexually oriented business license shall be displayed in a conspicuous public place, at or near the entrance of the sexually oriented business, so that it may be easily read at any time. All sexually oriented business employee licenses shall be promptly made available upon inspection or request.

7-5-9 Renewal of License.

- (a) Every license issued pursuant to this Ordinance will terminate at the expiration of one (1) year from the date of issuance, unless sooner suspended or revoked. A license must be renewed before operation is allowed to continue. A license may be renewed only by making an application as provided for in Section 7.5.5. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be upon a form provided by the Village of Fredonia and shall contain such information and data, given under oath or affirmation, as is required for an application for a new license.
- (b) A sexually oriented business license renewal fee of \$250.00 shall be submitted with the application for renewal. A sexually oriented business employee license renewal fee of \$100.00 shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty in the amount of \$100.00 shall be assessed against any applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, one-half (½) of the total fees collected shall be returned.
- (c) If the Village Marshall is aware of any information bearing on applicant's qualifications, that information shall be filed in writing with the Village Clerk.

7-5-10 Inspection.

- (a) For the purposes of ensuring compliance with this Ordinance, an applicant, operator or licensee shall permit law enforcement officers and any other federal, state, county or Village agency in the performance of any function connected with the enforcement of this Ordinance, normally and regularly conducted by such agencies, to inspect, at any time the business is occupied or open for business, those portions of the premises of a sexually oriented business which patrons or customers are permitted to occupy.

- (b) The provisions of this Section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

7-5-11 Suspension.

- (a) The Village Board shall issue a written intent to suspend a license for a period not to exceed thirty (30) days if it determines that a licensee, operator or employee of a licensee has:
 - (1) violated or is not in compliance with any section of this Ordinance; or
 - (2) refused to allow an inspection of the sexually oriented business premises as authorized by this Ordinance.
- (b) The Village Board shall give the licensee ten (10) days written notice of the charges against him and the opportunity for administrative review before the Board, as hereinafter provided.

7-5-12 Revocation.

- (a) The Village Board shall revoke by written notice a license for a sexually oriented business or a license for a sexually oriented business employee if a cause for suspension in Section 7.5.11 occurs and the license has been suspended within the preceding twelve (12) months.
- (b) The Village Board shall revoke by written notice a license if it determines that any of the following reasons exist:
 - (1) Discovery that false or misleading information or data was given on any application or material facts were omitted from the application;
 - (2) The licensee, operator or any employee of the licensee, violates any provisions of this Ordinance or any rules or regulation adopted by the Board pursuant to this Ordinance; provided, however, that in the case of a first offense by a licensee where the conduct was solely that of an employee, the penalty for the sexually oriented business licensee shall not exceed a suspension of thirty (30) days, if the Board shall find that the licensee had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge;
 - (3) The licensee becomes ineligible to obtain a license or permit
 - (4) Any cost or fee required to be paid by this Ordinance is not paid.
 - (5) Any intoxicating liquor, cereal malt beverage or other alcoholic beverage is served or consumed on the premises of the sexually oriented business;
 - (6) A licensee has knowingly allowed possession, use or sale of controlled substances on the premises;

- (7) A licensee has knowingly allowed prostitution on the premises;
- (8) A licensee has knowingly operated or been employed by the sexually oriented business during a period of time when the licensee's license was suspended.
- (9) A licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual act to occur in or on the licensed premises. This Subsection will not apply to an adult motel, unless the licensee knowingly allowed sexual activities to occur either (1) in exchange for money, or (2) in a public place or within public view.
- (c) The Village Board, before revoking any license, shall give the licensee at least ten (10) days written notice of the charges against him and the opportunity for Administrative review as hereinafter provided.
- (d) The transfer of ownership or control of a license shall automatically and immediately revoke the license.
- (e) Any licensee whose license is revoked shall not be eligible to receive a license for one (1) year from the date of revocation.

7-5-13 Administrative Review Procedure.

Chapter 68 of the Wisconsin Statutes concerning municipal administrative procedure shall govern the administrative procedure and review concerning the granting, denial, renewal or non-renewal of a permit or a license. A request for an initial determination shall be made by an aggrieved person pursuant to the provisions contained in Wisconsin Statutes, Section 68.08 to the Village Clerk. An administrative appeal pursuant to the provision contained in Wisconsin Statute, Section 68.10 may be made by an aggrieved person to the Board of Appeals and a hearing shall be held by the Board of Appeals pursuant to Wisconsin Statute, Section 68.11. Any party to a proceeding resulting in a final determination may seek judicial review pursuant to the provisions contained in Wisconsin Statute Section, 68.13.

7-5-14 Transfer of License.

A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

7-5-15 Physical Layout of Sexually Oriented Business.

- (a) Any sexually oriented business having available for customers, patrons or members, any booth, room or cubicle for the private viewing of any specified anatomical areas or specified sexual activity must comply with the following requirements:

- (1) Access. Each booth, room, or cubicle shall be totally accessible to and from aisles and public areas of the sexually oriented business and shall be unobstructed by any door, lock or other control-type devices.
- (2) Construction. Every booth, room or cubicle shall meet the following construction requirements:
 - a. Each booth, room, or cubicle shall be separated from adjacent booths, rooms or cubicles and any non-public areas by a wall.
 - b. Each booth shall have at least one side totally open to the public lighted aisle which may be secured when the booth is in use by a door which extends from a height of not less than two feet above the floor.
 - c. All walls shall be solid and without any openings, extended from the floor to a height of not less than six (6) feet and be light colored, non-absorbent, smooth textured and easily cleanable.
 - d. The floor must be light colored, non-absorbent, smooth textured and easily cleanable.
 - e. The lighting level of each booth, room, or cubicle, when not in use shall be a minimum of five (5) foot candles at all times, as measured from the floor.
- (3) Occupants. Only one individual shall occupy a booth, room or cubicle at any time. No occupant shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth. No individual shall damage or deface any portion of the booth.

7-5-16 Location

- (a) No sexually oriented business shall be located :
 - (1) Within 500 feet of an existing sexually oriented business;
 - (2) Within 500 feet of any residential dwelling, included but not limited to houses, apartments, condominiums, or flats.
 - (3) Within 500 feet of any pre-existing place of worship, including but not limited to any church, synagogue, mosque, temple or building which is primarily used for religious worship and related religious activities;
 - (4) Within 500 feet of any public or private educational facility, including but not limited to any child day care establishments, nursery schools, preschools, kindergartens, elementary schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges and universities. "School" includes the

school grounds, but does not include facilities used primarily for another purpose and only incidentally at a school.

- (5) Within 500 feet from any public park or recreational area which has been designated for park or recreational activities, including but not limited to a park, a playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the Village which is under the control, operation or management of the Village and recreational authorities; or
 - (6) Within 500 feet of any premise that in any manner sells or disperses alcohol or is licensed pursuant to the alcoholic beverage control regulations of the State.
- (b) For the purposes of this Section, distances are to be measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed herein. The presence of a city, county, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section.

7-5-17 Responsibilities of the Licensee.

- (a) Every act or omission by an employee constituting a violation of the provisions of this Section shall be deemed the act or omission of the licensee if such act or omission occurs either with the authorization, knowledge, or approval of the licensee, or as a result of the licensee's negligent failure to supervise the employee's conduct, and the licensee shall be punishable for such act or omission in the same manner as if the licensee committed the act or caused the omission.
- (b) 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 licensee for the purposes of determining whether the licensee's license shall be revoked, suspended or renewed.
- (c) No employee of a sexually oriented business shall allow any minor to loiter around or to frequent a sexually oriented business. It shall be the duty of the licensee of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during such sexually oriented businesses' regular business hours and to prevent any person under the age of eighteen (18) years of age from entering the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished:
 - (1) a valid operator's, commercial operator's or chauffeur's driver's license; or
 - (2) personal identification card issued by the State of Wisconsin reflecting that such person is eighteen (18) years of age or older.
- (d) The sexually oriented business licensee shall maintain the premises in a clean and sanitary manner at all times.

- (e) The sexually oriented business licensee shall maintain at least five (5) foot candles of light in the public portions of the establishment, including aisles, at all times. However, if a lesser level of illumination in the aisles is necessary to enable a patron to view any activity in a booth, room or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisle, provided, however, at no time shall there be less than one (1) foot candle of illumination of said aisles, as measured from the floor.
- (f) The licensee shall insure compliance of the sexually oriented business and its patrons with the provisions of this Ordinance.
- (g) The licensee shall insure that no alcoholic beverages are sold, used or consumed on the premises of a sexually oriented business.

7-5-18 Additional Regulations for Escort Agencies.

- (a) An escort agency shall not employ any person under the age of eighteen (18) years.
- (b) A person commits an offense if the person acts as an escort, or agrees to act as an escort for any person under the age of eighteen (18) years.

7-5-19 Additional Regulations Concerning Sexually Oriented Businesses.

- (a) It shall be prohibited in a sexually oriented business for a person to appear in a state of nudity or engage in specified sexual activities.
- (b) It shall be prohibited in a sexually oriented business, to appear in a semi-nude condition, unless the person is an employee, who, while semi-nude, is at least five (5) feet from any patron or customer and on a stage at least two (2) feet from the floor.
- (c) It shall be prohibited for an employee, while semi-nude in a sexually oriented business, to receive directly any pay or gratuity from any patron or customer, or for any patron or customer to pay or give any gratuity directly to any employee, while that employee is semi-nude in a sexually oriented business.
- (d) It shall be prohibited in a sexually oriented business to serve, sell, use, provide or consume any intoxicating liquor, cereal malt beverage or any other alcoholic beverage.

7-5-20 Prohibition Against Children in a Sexually Oriented Business.

It shall be prohibited for a person under the age of eighteen (18) years to be on the premises of a sexually oriented business.

7-5-21 Hours of Operation.

- (a) No sexually oriented business shall be open between the hours of 2:00 a.m. and 8:00 a.m. on weekdays or between the hours of 2:00 a.m. and 12:00 noon on Sundays.
- (b) All sexually oriented businesses shall be open to inspection at all reasonable times by the Fredonia Police Department and the Building Inspector.

7-5-22 Exclusions.

The provisions of this Ordinance do not apply to the following establishments: theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis; and in which the predominant business or attraction is not the offering of entertainment which is intended for sexual interests or titillation of customers; and where the establishment is not distinguished by an emphasis on or the advertising or promotion of nude or semi-nude performances. While expressive live nudity may occur within these establishments, this ordinance seeks only to minimize and prevent the secondary effects of sexually oriented businesses on the community. Negative secondary effects have not been associated with the establishments referenced in this Section.

7-5-23 Enforcement.

The Village Marshall or Ozaukee County Sheriff's Department shall have the authority to enter any sexually oriented business within the Village at all reasonable times to inspect the premises and enforce this Ordinance.

7-5-24 Penalties and Prosecutions.

A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of this Ordinance is subject to a suit for injunction as well as municipal prosecution. Such violation shall be punishable by a fine of \$500.00 plus court costs. Each day a sexually oriented business so operates is a separate offense or violation.

7-5-25 Severability.

Each section and provision of this Ordinance is hereby declared to be independent divisions and subdivisions and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of said Ordinance, or the application thereof to any person or circumstance is held to be invalid, the remaining sections or provisions and the application of such sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid.

7-5-26 Conflicting Ordinances Repealed.

All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

7-5-27 Effective Date.

This Ordinance shall take effect from and be in full force from and after its passage and posting as provided by law.

Chapter 6

Pool Tables

7-6-1 Pool Tables

Sec. 7-6-1 Pool Tables

- (a) No Person shall operate a pool table within the Village of Fredonia for profit without first procuring a permit so to do as herein provided.
- (b)
 - (1) The Village Clerk-Treasurer is authorized to issue a permit for the operation pool tables to such persons as may apply; therefore, said application for a permit shall be filed with the Village Clerk-Treasurer for presentation to the Village Board at any regular meeting or special meeting of said Village Board. The fee for said permit shall be ten Dollars (\$10.00) per year for each table and shall be from July 1st of said year to June 30th, inclusive. No permit shall be granted to a person who is not a citizen of the United States.
 - (2) Such application shall state:
 - a. The location at which such business is intended to be conducted.
 - b. Whether or not he is a citizen of the United States.
 - (3) All applications shall be accompanied by the fee hereinbefore provided.
- (c) All permits granted pursuant to the provisions of this Section shall expire on the first day of July each succeeding year. Such permits issued shall be issued under the terms and conditions of this Section and such further ordinances or amendments thereto as the Village Board may hereafter ordain.

Chapter 7

Regulation and Licensing of Fireworks

7-7-1 Regulation of Fireworks

Sec. 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 cap 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 or 0.25 inch in outside diameter which does not contain magnesium, chlorate or perchlorate.
 - (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, designed 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)(3);
 - (2) To a municipality; or
 - (3) For a purpose specified under Subsection (c)(2)b-f.
- (c) Use.**
- (1) **Permit Required.** No person may possess or 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. 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 listed under Subparagraph (c)(3) a-e or under Subparagraph (c)(3)f if the display is open to the general public.
 - (2) **Permit Exceptions.** Subparagraph (c)(1) above does not apply to:
 - a. The Village, except that Village fire and law enforcement officials shall be notified of the proposed use of fireworks at least two (2) days in advance.
 - b. the possession or use of explosives in accordance with rules or general orders 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 or 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.
 - (3) **Who May Obtain 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 agricultural producer for the protection of crops from predatory birds or animals.
- (4) **Crop Protection Signs.** A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.
- (5) **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 exceed the amount of the bond or policy. The bond or policy, together with a copy of the permit, shall be filed in the office of the Village.
- (6) **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.
- (7) **Copy of Permit.** A copy of a permit under this Subsection shall be given to the Fire Chief and Village Marshal at least two (2) days before the date of authorized use.
- (8) **Minors Prohibited.** A permit under this Subsection may not be issued to a minor.
- (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 may smoke where 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 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. 101(1)(j), Wis. Stats.

Cross Reference: Sec. 11-2-6.

Chapter 8

Street Use Permits

7-8-1 Street Use Permits

Sec. 7-8-1 Street Use Permits.

- (a) **Purpose.** The streets in possession of the Village of Fredonia are primarily for the use of the public in the ordinary way. However, under proper circumstances, the Village Clerk-Treasurer may grant a permit for street use, subject to reasonable municipal regulation and control. Therefore, this Chapter 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 Clerk-Treasurer and shall be filed with the Village Clerk-Treasurer. 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.
- (c) **Representative at Meeting.** The person or representative of the group making application for a Street Use Permit shall be present when the Village Board gives consideration to the granting of said Street Use Permit to provide any additional information which is reasonably necessary to make a fair determination as to whether a permit should be granted.
- (d) **Review.** Before any application for a Street Use Permit is considered by the Village Board, the application shall be reviewed by the Director of Public Works and Village Marshal for their recommendation as to the effect that the temporary closing of the street will have on the public safety and traffic movement in the area during the time the street may be closed.
- (e) **Mandatory Denial of Street Use Permit.** An application for a Street Use Permit shall be denied if:
- (1) The proposed street use is primarily for private or commercial gain.
 - (2) The proposed street use would violate any federal or state law or any Ordinance of the Village.

- (3) The proposed street use will substantially hinder the movement of police, fire, or emergency vehicles, constituting a risk to persons or property.
- (4) The application for a Street Use Permit does not contain the information required above.
- (5) The application requests a period for the use of the street in excess of five (5) days.
- (6) The proposed use could equally be held in a public park or other location. In addition to the requirement that the application for a Street Use Permit shall be denied, as hereinabove set forth, the Village Board may deny a permit for any other reason or reasons if it concludes that the health, safety and general welfare of the public cannot adequately be protected and maintained if the permit is granted.
- (f) **Permit Fee.** Each application for a Street Use Permit shall be accompanied by a fee of Twenty Dollars (\$20.00).
- (g) **Consent to Issuance of Street Use Permit.** In addition to the fee required by the previous Subsection, each application for a Street Use Permit, except for parades or races sponsored by civic, youth or scout organizations which have been in existence for at least six (6) months, shall be accompanied by a petition designating the proposed area of the street to be used and time for said proposed use, said petition to be signed by not less than seventy-five percent (75%) of the residents over eighteen (18) years of age residing along that portion of the street designated for the proposed use. Said petition shall be verified and shall be submitted in substantially the following form:

PETITION FOR STREET USE PERMIT

We, the undersigned residents of the _____ hundred block of _____ Street in the Village of Fredonia, hereby consent to the _____ recreational or business use of this street between the hours of _____ and _____ on _____, the _____ day of _____, 20____, for the purpose of _____ and do hereby consent to the Village of Fredonia to grant a Street Use Permit for use of the said portion of said street for said purpose and do hereby agree to abide by such conditions of such use as the Village of Fredonia shall attach to the granting of the requested Street Use Permit. We further understand that the permit will not be granted for longer than six (6) hours on the date hereinabove specified, and agree to remove from the street prior to the end of said period all equipment, vehicles and other personal property placed or driven thereon during the event for which a permit is granted. We designate _____ as the responsible person or persons who shall apply for an application for a Street Use Permit.

- (h) **Insurance.** The applicant for a Street Use Permit may 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 Fredonia. The applicant may be required to furnish a performance bond prior to being granted the permit.

- (i) **Termination of a Street Use Permit.** A Street Use Permit for an event in progress may be terminated by the Village President or a 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 Fredonia. A law enforcement officer shall have 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.

Chapter 9

Regulation of Nonmetallic Mining.

7-9-1	Statutory Provisions Adopted
7-9-2	Definitions
7-9-3	Existing Nonmetallic Mining Operations
7-9-4	Exempt Activities
7-9-5	Permit Required for Nonmetallic Mining
7-9-6	Permit Revocation
7-9-7	Blasting and/or Rock Crushing

Sec. 7-9-1 Statutory Provisions Adopted.

This Chapter is adopted pursuant to Sec. 66.038, Wis. Stats., which is adopted by reference and made part of this Chapter as if fully set forth therein.

Sec. 7-9-2 Definitions.

As used in this Chapter:

- (a) **Environmental Pollution.** Has the meaning specified under Sec. 144.01(3), Wis. Stats.
- (b) **Nonmetallic Mining or Nonmetallic Mining Operation.** Operations or activities for the extraction from the earth for sale or use by the operator of mineral aggregates such as stone, sand and gravel, fill material and nonmetallic minerals such as asbestos, beryl, clay, feldspar, peat and talc, related operations or activities such as excavations, grading or dredging if the purpose of those operations or activities is the extraction of mineral aggregates and nonmetallic minerals and related processes such as crushing, screening, scalping, dewatering and blending.
- (c) **Nonmetallic Mining Refuse.** Waste soil, rock, mineral, liquid, vegetation and other waste material resulting from a nonmetallic mining operation. This term does not include merchantable by-products resulting directly from or displaced by the nonmetallic mining operation.
- (d) **Nonmetallic Mining Site or Site.** The location where a nonmetallic mining operation is proposed or conducted, including all surface areas from which materials are removed, related storage and processing areas, areas where nonmetallic mining operation by activities such as the construction or improvement of roads or haulageways.

- (e) **Operator.** Any person who is engaged in a nonmetallic mining operation or nonmetallic mining site reclamation or who applies for or holds a nonmetallic mining permit issued under this nonmetallic mining reclamation ordinance whether individually, jointly or through subsidiaries, agents, employees, contractors or subcontractors.
- (f) **Reclamation.** The rehabilitation of a nonmetallic mining site including, but not limited to, removal of nonmetallic mining refuse, grading of the site, replacement of topsoil, stabilization of soil conditions, establishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution, construction of fences and, if practical, restoration of plant, fish and wildlife habitat.
- (g) **Replacement of Topsoil.** The replacement of the topsoil which was removed or disturbed by a nonmetallic mining operation or the provision of soil which is at least as adequate as the topsoil which was removed or disturbed for the purposes of providing adequate vegetative cover and stabilization of soil conditions.

Sec. 7-9-3 Existing Nonmetallic Mining Operations.

This nonmetallic mining reclamation Chapter shall apply to any portion of a nonmetallic mining site, including unreclaimed portions of a site which were mined prior to the effective date of this Chapter.

Sec. 7-9-4 Exempt Activities.

This nonmetallic mining reclamation Chapter shall not apply to the following activities:

- (a) Excavations or grading by a person solely for domestic use at his or her residence.
- (b) Excavations or grading conducted for highway construction purposes within the highway right-of-way.
- (c) Grading conducted for farming preparing a construction site or restoring land following a flood or natural disaster.
- (d) Excavations for building construction purposes.
- (e) Any mining operation, the reclamation of which is required in a permit obtained under Sections 144.80 to 144.94, Wis. Stats.
- (f) Any activities conducted at a solid or hazardous waste disposal site required to prepare, operate or close a solid waste disposal facility under Sections 144.435 to 144.445, Wis. Stats., or a hazardous waste disposal facility under Sections 144.60 to 144.74, Wis. Stats., but a nonmetallic mining reclamation ordinance may apply to activities related to solid or hazardous waste disposal which are conducted at a nonmetallic site separate from the solid or hazardous waste disposal facility such as activities to obtain nonmetallic minerals to be used for lining, capping, covering or constructing berms, dikes or roads.

Sec. 7-9-5 Permit Required for Nonmetallic Mining.

- (a) **Permit Required.** No person shall operate any nonmetallic mining site or operation within the Village unless he obtains a nonmetallic mining permit from the Village Board. The fee for such permit shall be One Hundred Dollars (\$100.00), plus actual Village administrative expenses, payable by certified check. Operators of existing nonmetallic

mining operations shall apply for such permit within thirty (30) days of the effective date of this Chapter.

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

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

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

- (1) All final slopes around the area to be flatter than a three (3) to one (1) horizontal slope in a sand, gravel or borrow pit operation, or in a safe angle or repose in a quarrying operation;
- (2) Excavations below the grade of the nearest abutting public street or highway shall be set back from the street or highway a distance not less than that required for buildings and structures in the same zoning district;
- (3) Excavations made to a water-producing depth shall be not less than three (3) feet measured from the low water mark;
- (4) All final slopes shall be covered with adequate topsoil and seeded to prevent erosion;
- (5) The plan shall require that, after completion of the anticipated operation, the area shall be cleared of all debris and be left in a workmanlike condition, subject to the approval of the Village Board;
- (6) There is a timetable for completion of various stages of reclamation of the nonmetallic mining site.

(d) **Applications.** All applications for a license hereunder shall be made in writing upon the written form provided by the Village and distributed by the Village Clerk-Treasurer. All applications for permits hereunder shall be signed by the applicant and filed with the Village Clerk-Treasurer at least sixty (60) days prior to the licensing period. The Clerk-Treasurer shall immediately refer all applications for a license hereunder to the Village Board for public hearing and approval. The operator shall receive written notice of the public hearing. The license shall be for a period of time as stated in the application or as modified by the Village Board. Modification of the application or reclamation plan may be permitted or additional conditions may be required upon application. The Board shall consider the effect of the operation and the proposed reclamation upon existing and

future conditions, including streets, neighboring land development, land use drainage, water supply, water pollution, air pollution, soil erosion, natural beauty and land value of the locality. The Village Board may approve, approve conditionally or reject the application and reclamation plan.

- (e) **Financial Assurance.** Before a license and reclamation plan is approved by the Village Board, the operator shall submit an agreement and performance bond or cash escrow agreement to assure the following:
- (1) The operator shall pay for the cost of all improvements required in the reclamation plan by the Village Board.
 - (2) Guaranteed completion of the required reclamation within a period determined by the Village Board.
 - (3) Payment by the operator for all costs incurred by the Village for review and inspection. This would include preparation and review of plans and specifications by the Village Engineer and Attorney, as well as other costs of similar nature.
 - (4) The Village may elect to have stages of the reclamation plan performed under the terms of a cash escrow agreement.
 - (5) The required performance bond or cash escrow agreement shall be equal to one and one-quarter (1 ¼) times the Village Engineer's estimated cost of the required improvements.
 - (6) If the required reclamation is not complete within the designated period, all amounts held under the escrow agreement or performance bond shall be turned over and delivered to the Village and applied to the cost of the required reclamation. Any balance remaining after such reclamation has been done shall be returned to the operator. The Village Board, at its option, may extend the bond period for additional periods.
- (f) **Fences.** Prior to reclamation, nonmetallic mining sites abutting areas zoned residential shall be enclosed by a security fence of not less than six (6) feet in height. Fence gates shall be locked or secured when the site is unattended so as to prevent uncontrolled access by children to the site.
- (g) **Inspection.** An authorized agent of the Village may enter the premises of a nonmetallic mining operation in the performance of his or her official duties by permission of the property owner or operator or pursuant to a special inspection warrant issued under Sec. 66.122, Wis. Stats., in order to inspect those premises and to ascertain compliance with this nonmetallic mining reclamation Chapter.
- (h) **Prohibitions and Orders.** Nonmetallic mining operations within the Village are prohibited if the nonmetallic mining site cannot be reclaimed in compliance with the standards of this Chapter or if other requirements of this Chapter are not met.

Sec. 7-9-6 Permit Revocation.

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

Sec. 7-9-7 Blasting and/or Rock Crushing.

(a) **Definitions.** The following definitions shall apply in the interpretation and enforcement of this Section:

- (1) **Blasting.** A method of loosening, moving or shattering masses of solid matter by use of explosive compounds to prepare stone for crushing, to prepare stone for building and/or ornamental use, or to prepare property for development.
- (2) **Person.** Any individual, partner, corporation, company, trustee or association, together with the respective servants, agents and employees thereof.
- (3) **Rock Crusher.** Any device, machine, apparatus or equipment used either individually or in conjunction with any other device, machine, apparatus or equipment for the purpose of crushing, grinding, breaking or pulverizing rock or stone.

(b) **Operation.** No person within the Village shall operate a rock crusher or perform blasting in such a manner so that any dust, dirt or vibration from such operation shall, in any way, damage or injure any person or property within the Village. All blasting within the Village shall be performed according to the requirements of Ch. IND 5, Explosives and Blasting Agents, Wis. Adm. Code, and all subsequent amendments thereto.

(c) **Permit.**

- (1) **Permit Required.** No person within the Village shall operate a rock crusher or perform blasting who does not possess a proper permit therefore from the Village.
- (2) **Applications.** All applications for permits hereunder shall be made in writing upon the written form provided by the Village and distributed by the Village Clerk-Treasurer. All applications for permits hereunder shall be signed by the applicant and filed with the Village Clerk-Treasurer at least sixty (60) days prior to the licensing period. The Village Clerk-Treasurer shall immediately refer all applications for permits hereunder to the Village Engineer. The Village Clerk-Treasurer shall issue a permit hereunder only after first receiving the recommendation of the Village Engineer, the duly executed certified check for the permit fee as hereinafter provided and the submittal of the Plan of Operation, if required, as approved by the Village Engineer.
- (3) **Certified Check.** Each application for a permit hereunder shall be accompanied by a certified check in the sum of the required permit fee as hereinafter provided, or a renewal thereof, the same to be payable to the Village.
- (4) **Plan of Operation.** Each application to permit a rock crusher hereunder or renewal thereof shall be accompanied by a Plan of Operation which shall include: methods of screening from adjacent properties, hours of operation, hours of blasting and operation of rock crusher, dust and noise control, blasting procedures, location and height of stock piles, whether a rock crusher will be needed and how often, water supply, drainage course, maximum depth, legal description of property in question and other information the Village Engineer deems pertinent to the proposed operation. Such Plan of Reorganization shall be approved by the Village Engineer.
- (5) **Insurance.** Each application for the blasting permit shall be accompanied by a Certificate of Insurance identifying the Village of Fredonia as a party insured in the amount of Five Hundred Thousand Dollars (\$500,000.00) for damage to

property, and One Million Dollars (\$1,000,000.00) for injury to more than one (1) person caused by the blasting.

- (d) **Renewals.** All requests for renewals of permits hereunder shall be made at least sixty (60) days prior to the expiration date of the permit and must comply with all requirements of Subsection (c) above.

(e) **Blasting Procedures and Controls.**

- (1) **Energy Ratio.** The allowable vibration of any blast at the nearest occupied or used building off the subject premises shall not exceed an energy ratio of 0.5 or resultant particle velocity of 1.35" per second based on the following formula:

Energy ratio = $0.5 = 10.823 f^2 A^2$ where f = frequency in cycles per second,
 A = amplitude or displacement in inches

Energy ratio = $.274 V^2$ (V = resultant particles velocity expressed in inches per second)

- (2) **Measurement of Blasts.** The operator of the quarry operation, when requested to do so by the Village Engineer, shall measure and submit data to substantiate compliance with the above formula and the operator of the quarry operation, when requested to do so by the Village Engineer, shall measure air blast. This verification shall be performed by a seismological engineering firm acceptable to the Village or by the Village Engineer. Instrumentation shall be by seismograph similar to VME Seismolog Model "B" and approved seismograph sound measuring equipment or approved equivalents. All expenses for these tests shall be paid by the quarry operator.

- (3) **Blasting Log.** A log in duplicate shall be kept of each blast on forms similar to the one on file with the Village Clerk-Treasurer. The original copy of this blasting log shall be filed with the Clerk-Treasurer within forty-eight (48) hours after the blast, and a copy shall be kept on file at the quarry office.

- (4) **Cover Material.** Operators of quarries for building and/or ornamental stone removal shall cover Primacord, other detonating cord or surface-laid blasting devices with at least one foot (1') of dirt or other suitable cover material.

- (f) **Permit Fee.** The permit fee for any permit issued pursuant to this Section shall be as set forth below. No permit fee shall be prorated. All permits issued hereunder shall expire on December 31 following the date of issue:

- (1) Quarries using blasting to supply buildings and/or ornamental stone: Fifty Dollars (\$50.00) annually.

- (2) Gravel crushing operations using portable or fixed crushing equipment less than thirty (30) days per year: Fifty Dollars (\$50.00) annually.

- (g) **Penalty.** Any person who shall violate any of the provisions of this Section shall be subject to a penalty as provided in Section 1-1-6 of this Code of Ordinances. However, upon conviction for the violation of any of the provisions of this Section by the holder of a permit issued hereunder, and in addition to the forfeiture provided, such permit shall thereupon be cancelled, revoked, rescinded and terminated.

- (h) **Enforcement.** Before renewal of any license issued under this Section is refused or any license is revoked, cancelled, rescinded or terminated, the licensee shall be given written

notice of any charges or violations against him or the reasons proposed for non-renewal or revocation and shall have an opportunity to be heard before the Village Board.

Chapter 10

Transient and Temporary Public Entertainments

7-10-1 Transient and Temporary Public Entertainments

Sec. 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 Clerk-Treasurer in writing at least thirty (30) days before the planned event and all of the information regarding insurance, etc., shall be referred to the Village Board for examination of the 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 therefore shall have filed with the Clerk-Treasurer a public 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 and citizens 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 his agents or 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 recovered 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 a permit fee for the operation or maintenance of the public entertainment as follows:

Carnivals: Five Dollars (\$5.00).

Circuses: Five Dollars (\$5.00)

Public Entertainment: Five Dollars (\$5.00) per day.

All public entertainments listed in Subsection (b) shall be exempt from any license fee if sponsored by a nonprofit organization.

- (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 of Wisconsin 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 for by the license.
- (e) **Revocations.** Any license granted by the Village Board under the provisions of this Section may be revoked by the Village President or a law enforcement officer provided such carnival shall not be maintained or if the person who maintains, owns, controls or operate such carnival shall permit the violation of any provisions of this Municipal Code or State laws or where, in the opinion of the law enforcement officer or Village President, the carnival is deemed undesirable. Revocations or suspensions may be appealed to the Village Board.

Chapter 11

Licensees to Pay Local Claims; Appellate Procedures

7-11-1 Licensees Required to Pay Local Taxes, Assessments and Claims;
Appellate Procedures

Sec. 7-11-1 Licensees Required to Pay Local Taxes, Assessments and Claims.

- (a) **Nonpayment of Taxes or Forfeitures.** The Village shall not issue or renew any license to transact any business within the Village of Fredonia.
 - (1) For any purposes for which taxes, assessment 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 owned the Village; or
 - b. Of any forfeiture resulting from a violation of any Village Ordinance.
- (b) **Applicability.** This Section shall apply to licenses issued pursuant to the provisions of Title 7 of this Code of Ordinances, except Chapter 1 and 5.
- (c) **Denial of Renewal.** An application for renewal of a license subject to this Chapter shall be denied pursuant to the provisions of Subsection (a) only following notice and opportunity for hearing as provided by Subsection (d) below.
- (d) **Hearing.** 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 Chapter 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 (a) herein, the Village Board or its assignee shall notify the applicant in writing of the Village's intention not to renew the license and shall provide the applicant with an

opportunity for 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. The applicant shall, upon request, be provided a written transcript of the hearing at the applicant's expense. If the Village Board determines the applicant shall not be entitled to renewal pursuant to Subsection (a), the application for renewal shall be denied.

- (e) **Other Grounds for Hearing.** Where an individual, business or corporation wishes to appeal the Village Clerk-Treasurer's 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 Clerk-Treasurer 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.