# Chapter 6 - BUSINESSES

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# ARTICLE I - IN GENERAL

### Secs. 6-1 - 6-18. - Reserved.

# ARTICLE II - LICENSING

## DIVISION 1. - GENERALLY

### Sec. 6-19 - Licenses required; fee.

A license shall be required for each business at the indicated license fee which is on file in the village clerk's office. Each license shall be for one year unless otherwise indicated. The fee schedule may be revised from time to time by resolution of the village board. (Code 2006, § 12.01)

### Secs. 6-20 - 6-43 - Reserved.

## DIVISION 2 - LICENSES GENERALLY

### Sec. 6-44 - Terms interchangeable.

The terms "license" and "permit" as used throughout this chapter shall be interchangeable.

(Code 2006, § 12.02(1))

### Sec. 6-45 - License required.

No person shall engage in any business or activity enumerated in this chapter without a license therefor as provided by this chapter. (Code 2006, § 12.02(2))

### Sec. 6-46 - Application.

Application for a license required by this chapter shall be made to the village clerk, on a form furnished by the village, and shall contain such information as may be required by the provisions of this chapter or as may be otherwise required by the village board. (Code 2006, § 12.02(3))

### Sec. 6-47 - License fees.

(1) *Fees to accompany application.* The license fees shall accompany the license application. If a license is granted, the village clerk-treasurer shall issue the applicant a receipt for his license fee.

(2) *Refunds.* No fee paid shall be refunded unless the license is denied. (Code 2006, § 12.02(4))

### Sec. 6-48 - Granting of licenses.

Unless otherwise designated, licenses required by this chapter shall be issued by the village clerk only with the approval of the board. (Code 2006, § 12.02(5))

### Sec. 6-49 - Terms of licenses.

All licenses issued hereunder shall expire on June 30 in the year of issuance unless issued for a shorter term, when they shall expire at 12:00 midnight of the last effective day of the license, or unless otherwise provided by village ordinances or state laws. (Code 2006, § 12.02(6))

### Sec. 6-50 - Form of license.

All licenses issued hereunder shall show the dates of issue and expiration and the activity licensed and shall be signed by the village clerk. (Code 2006, § 12.02(7))

### Sec. 6-51 - Records of licenses.

The village clerk-treasurer shall keep a record of all licenses issued. (Code 2006, § 12.02(8))

### Sec. 6-52 - Display of licenses.

All licenses hereunder shall be displayed upon the premises or vehicle for which issued or, if carried on the person, shall be displayed to any officer of the village upon request. (Code 2006, § 12.02(9))

### Sec. 6-53 - Compliance with ordinances required.

It shall be a condition of holding a license under this chapter that the licensee comply with all applicable ordinances of the village. Failure to do so shall be cause for suspension or revocation of the license. (Code 2006, § 12.02(10))

### Sec. 6-54 - Transfer of licenses.

All licenses issued hereunder shall be personal to whom issued, and no license shall be transferred without the consent of the village board. (Code 2006, § 12.02(11))

## Sec. 6-55 - Exemptions.

No license other than a liquor or beer license shall be required under this chapter for any nonprofit educational, charitable, civic, military or religious organization if the activity which would otherwise be licensed is conducted for the benefit of the members or for the benefit of the public generally.

(Code 2006, § 12.02(12))

## Sec. 6-56 - Renewal of licenses.

All applications for renewal of licenses hereunder shall be made to the village clerk by April 15.

(Code 2006, § 12.02(13))

## Sec. 6-57 - Consent to inspection.

An applicant for a license under this chapter thereby consents to the entry of a public safety officer or authorized representatives of the village upon the licensed premises at all reasonable hours for the purposes of inspection and search, and consents to removal from the premises and introduction into evidence in prosecutions for violations of this chapter all things found therein in violation of this chapter or state law. (Code 2006, § 12.02(14))

## Sec. 6-58. - Revocation and suspension of licenses.

(1) Except as otherwise provided, any license issued under this chapter may be revoked for cause by the village board. No license shall be revoked except upon written verified complaint filed with the village board by the village president, a member of the village board, the director of public safety, the chair of the public works and protection committee or a resident of the village. The licensee shall be served with a written copy of the charges and shall be given an opportunity to be heard before the village board. The licensee shall be given notice of such hearing, which shall be not more than 20 nor less than five days after notice is received, except as otherwise agreed between the parties.

(2) At such hearing, the licensee shall be entitled to be represented by counsel, shall have the right to present and cross examine witnesses and, upon request, may have subpoenas issued by the village president or presiding officer of the village board to compel the attendance of witnesses.

(3) After hearing the evidence, the village board may revoke such license or impose a limited period of suspension. The determination of the board shall be final, subject to review under chapter 2, article XI, provided the licensee shall not be entitled to a further hearing unless granted by the village board.

(4) The public safety department shall repossess any license revoked hereunder.

(5) If the licensee does not apply for a hearing within the time provided, the license may be revoked by the village board.

(6) The village president or village board may suspend the license of a licensee hereunder, without hearing, for a period not to exceed ten days. (Code 2006, § 12.02(15))

### Sec. 6-59. - Duty of clerk-treasurer with regard to licenses; payment of taxes, claims, forfeitures, judgments, etc.; appeal.

(1) *Village clerk-treasurer to enforce.* The village clerk-treasurer shall be charged with the enforcement of all ordinances relating to licenses, unless other provision is made by the village board for the enforcement.

(2) *Payment of taxes, claims, etc.*

(a) The payment of all personal property taxes, special assessments and room taxes imposed pursuant to chapter 12, pertaining to finance and taxation, all forfeitures or judgments resulting from conviction for violation of any village ordinance, except moving traffic violations, any outstanding indebtedness to the village and all other judgments due and owing from any applicant to the village at the time of the application for any license or permit provided for in this chapter, and any of the same relating to the property or business previously licensed if the new license is granted consequent or conditionally upon the sale or transfer of the business or stock-in-trade or furnishings or equipment of the premises or of the ownership or control of a corporation is a condition precedent to the granting of such license or permit. If the personal property tax bill has not been issued, the clerk-treasurer shall require advance payment based on the previous year's mill rate multiplied by the premises', property's or business' current year's valuation. No license or permit application shall be granted until the treasurer has certified on the application that all required payments have been made.

(b) Every applicant must disclose on his application for any license with the village any and all amounts of money owed to the village by him or by the previous owner of the premises to be licensed. Any applicant failing to disclose such debts will have his license revoked.

(3) *Appeal.* Alleged errors in amounts claimed to be due the village may be appealed to a committee comprised of the assessor, the clerk-treasurer and the finance director or their designees. The committee shall have no authority to review any matter for which a review or appeal procedure has been provided by statute or other ordinance. Within five days of being informed of an amount claimed due, the person seeking review shall pay the amount claimed and file a written notice of appeal with the clerk stating the basis for the appeal and specifying the alleged error. Upon payment, the applicant may file the application for the license or permit if otherwise qualified. As soon as practicable, the committee shall hold a hearing at which the person shall present evidence to substantiate the claimed error, call witnesses in his own behalf, may cross examine witnesses and may be represented by legal counsel. After holding the hearing, the committee shall by majority vote make findings of fact and conclusions and shall correct any established errors. Any amount improperly required paid shall be refunded promptly, together with interest at the rate of 12 percent per annum from the date the amount was paid to the village to the date of refund.

(Code 2006, § 12.02(16)(a)—(c); Ord. No. O8-3-91, 8-25-1991)

### Secs. 6-60—6-76 - Reserved.

## ARTICLE III - CLOSING OUT OF BUSINESS SALES

### Sec. 6-77 - Closing out of business sales.

No person shall conduct a "closing out of business" sale of merchandise in the village except as hereinafter provided. (Code 2006, § 9.21; Ord. No. 8-1-81, 7-28-1981)

## Sec. 6-78 - License required.

Every person shall obtain a village closing out of business sale license before retailing or advertising for liquidator, adjuster, administrator, trustee, executor, receiver, wholesaler, jobber, manufacturer, retail any merchandise represented to be merchandise of a bankrupt, insolvent, assignee, or of any business that is in liquidation, that is closing out, closing or disposing of its stock or a particular part or department thereof, that has lost its lease or has been or is being forced out of business, that is disposing of stock on hand because of damage by fire, water, smoke or other cause, or that for any reason is forced to dispose of stock on hand. This license shall be obtained in advance if the advertisement or representation, expressed or implied, tends to lead people to believe that this sale is a selling out or closing out sale.

(Code 2006, § 9.21(1); Ord. No. 8-1-81, 7-28-1981)

## Sec. 6-79 - License application.

Every person requiring a closing out of business sale license shall make an application in writing to the village clerk-treasurer on the form provided by the clerk-treasurer and attach thereto an inventory containing a complete and accurate list of the stock of merchandise on hand to be sold at such sale and an affidavit by the applicant or his duly authorized agent that the inventory is true and correct to the knowledge of the person making such affidavit. The affidavit shall include the names and addresses of the principals, such as the partners, officers and directors and the principal stockholders and owners of the business, and of the inventoried merchandise.

(1) The inventory shall contain the cost price of the articles listed therein, together with the date of purchases and the identity of the seller. If the merchandise was purchased for a lump sum or other circumstances make the listing of the cost price for each article impracticable, the inventory shall state the lump sum paid for such merchandise and the circumstances of the purchase.

(2) The application shall also specify the name and address of the applicant and, if an agent, the person for whom he is acting as an agent, the place at which the sale is to be conducted and the period of time the proposed sale is to take place. The license shall specify the period for which it is granted, which shall not exceed 60 successive days, Sundays and legal holidays excepted, from the date of the license.

(Code 2006, § 9.21(2); Ord. No. 8-1-81, 7-28-1981)

## Sec. 6-80 - Extension of license period.

(1) The period of time that a sale may be conducted may be extended by the village clerk-treasurer if, at any time during the term of the license, a written application for such extension, duly verified by affidavit of the applicant, is filed by the licensee with the village clerk.

(2) This application shall state the amount of merchandise listed in the original inventory which has been sold and the amount which still remains for sale and shall state the time for which an extension is requested.

(3) No extension shall be granted if any merchandise has been added to the stock listed in the inventory since the date of the license. The applicant shall satisfy the village clerk by affidavit, or as otherwise directed by him, that no merchandise has been added to the stock since the date of issuance of the license.

(4) The village clerk-treasurer may grant or deny the application. If granted, the period of the extension shall be determined by the village clerk-treasurer, but shall not exceed 30 days from the expiration of the original license. If the extension is granted, it shall be issued by the village clerk-treasurer upon

the payment of an additional license fee per day which is on file in the office of the village clerk-treasurer for the time during which it is granted. (Code 2006, § 9.21(3); Ord. No. 8-1-81, 7-28-1981)

### Sec. 6-81 - Sale of additional merchandise.

It shall be unlawful to sell, offer or expose for sale, at any sale for which a license is required by this section, any merchandise not listed in the inventory required by section 6-79. Any merchant may, however, in the regular course of business, conduct a "closing out" sale of merchandise and at the same time sell other merchandise, if the merchandise for the sale of which a license is required shall be distinguished by a tag or otherwise so that the "closing out" merchandise is readily ascertainable to prospective purchasers. The merchant shall not label or tag other merchandise in a manner to indicate, or lead a prospective purchaser to believe that such merchandise is of the class for which a license is required. Each article sold in violation of the provisions hereof, shall constitute a separate offense, and any false or misleading statement in the required inventory, application or extension application shall constitute a violation of this article. (Code 2006, § 9.21(4); Ord. No. 8-1-81, 7-28-1981)

### Sec. 6-82 - Verification of inventory.

The village clerk shall verify the details of the inventory filed in connection with an application for this license and shall also verify the items of merchandise sold during any sale under this section. No licensee shall refuse to furnish on demand to the village clerk, or any person designated by him for that purpose, all the facts connected with the stock on hand or any other information that he may reasonably require in order to make a thorough investigation of all phases of the sale, so far as they relate to the rights of the public. (Code 2006, § 9.21(5); Ord. No. 8-1-81, 7-28-1981)

### Sec. 6-83 - Fees.

The fee for such licenses shall be on file in the office of the clerk-treasurer.

(Code 2006, § 9.21(6); Ord. No. 8-1-81, 7-28-1981)

### Sec. 6-84. - Exceptions.

This section shall not apply to sales by public officers or sales under judicial process.

(Code 2006, § 9.21(7); Ord. No. 8-1-81, 7-28-1981)

### Sec. 6-85 - Penalty.

Any person violating this article shall forfeit not less than $25.00 nor more than $200.00 for each violation. (Code 2006, § 9.21(8); Ord. No. 8-1-81, 7-28-1981)

### Secs. 6-86 - 6-113 - Reserved.

# ARTICLE IV. - SOLICITING AND DIRECT SALES

FOOTNOTE(S):--- (1) --- State Law reference— Authority to regulate transient merchants, Wis. Stats. § 66.0423; warning required on certain sales by peddlers, etc., Wis. Stats. § 241.17; charitable solicitations, Wis. Stats. § 440.42 et seq. (Back)

## DIVISION 1. - GENERALLY

### Sec. 6-114 - Definitions.

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

*Charitable organization* means any benevolent, philanthropic, patriotic, or charitable partnership, association, or corporation, or one purporting to be such, which has maintained a permanent office in the county for at least the six months immediately preceding the date of the application.

*Complimentary products or promotion* means the giving of any merchandise, food product or promoting any product or service.

*Direct seller or sales* means any individual who, for him/herself, or for a partnership, association, corporation, or charitable or not-for-profit organization sells goods or services or takes sales orders for later delivery of goods or services at any location other than a permanent place of business. The sale of goods or services includes donations required for the retention of goods or services by a donor or prospective customer.

*Goods* means personal property of any kind and personal services offered or sold independently of, in conjunction with, or incidental to any personal property offered or sold.

*Motor vehicle* means as defined in Wis. Stats. § 340.01(35).

*Other property* means private property and public property which is not a public right-of-way.

*Permanent merchant* means an individual, partnership, association, corporation, or charitable or not-for-profit organization who operates an established business in the county from a permanent location for at least the six months preceding the date of application.

*Services* means the performance of a duty or labor for the benefit of another and shall include services provided incidental to goods offered or sold.

*Sidewalk* means all areas of public right-of-way not intended for use by motor vehicles.

*Solicitor* or *solicitation* means any individual who, for him/herself, or for a partnership, association or corporation goes from house to house, or place to place, selling or taking orders for goods or services for contributions of money, time, support or personal property of any kind of value.

*Special event* means areas within the boundaries set by village board resolution for Packer training camp and Packer home games, Resch Center/Shopko Hall and Arena complex areas, and Lambeau Field area during the duration of such events.

*Stand* means a stand, tent, cart, pushcart, or nonpermanent structure from which direct sales are conducted. A person shall also be deemed to have a stand, although there is no structure associated therewith, whenever a person remains in any one location for more than 15 minutes.

*Street* means those portions of public right-of-way intended for use primarily by motor vehicles.

*Tent* means a tent permit may be required from the village's inspection department.

(Code 2006, § 12.05(1); Ord. No. O10-1-04, 10-12-2004; Ord. No. O7-2-10, § 1, 7-27-2010)

### Sec. 6-115 - Intent.

The intent of these regulations is to protect the peaceful enjoyment of the residents of the village in their residence and throughout the community and to protect residents from commercial fraud whenever possible. (Ord. No. O7-2-10, § 2, 7-27-2010)

### Secs. 6-116 - 6-141 - Reserved.

## DIVISION 2. - PERMITS

### Sec. 6-142 - Direct sales permit required.

No person shall engage in direct sales activity without the appropriate permit for the stand, vehicle, or location from which direct sales activity is conducted. A permittee shall be responsible for the acts and omissions of any employee, agent, or independent contractor while engaged in direct sales activity. Complimentary products and promotions are to be treated the same as direct sales.

(Code 2006, § 12.05(2))

### Sec. 6-143 - Solicitor's permit required.

No person shall engage in solicitation without a permit. (Code 2006, § 12.05(3))

### Sec. 6-144 - Exemptions.

(1) The following activities shall be exempted from the permit requirement of this division:

- (a) The delivery of goods to regular customers on established routes;
- (b) The sale of goods at wholesale to dealers in such goods;
- (c) A home visit specifically requested by the buyer;
- (d) A sale required by statute or order of any court;
- (e) A bona fide auction sale pursuant to law;
- (f) Business sales and trade shows not open to the public;
- (g) Merchants doing business inside the Research Center, Shopko Hall or the Brown County Arena.

(h) Merchants conducting business at the Oneida Nation Casino Complex (including the casino, Radisson Hotel, Bingo Hall, accessory structures and grounds). The Oneida Nation shall be responsible for any administration, regulation and coordination of such activities.

(i) Merchants approved to participate in a managed market, for the duration of the market at the specified location of the market, as referenced in section 6-156

(Code 2006, § 12.05(4); Ord. No. O7-2-10, § 3, 7-27-2010; Ord. No. O4-2-13, § 1, 4-23-2013)

### Sec. 6-145 - Fee exemptions.

Direct sales and solicitation conducted by any employee, member, officer or agent of a qualified state charitable or not-for-profit organization, provided that there is proof that such organization is registered under Wis. Stats. § 440.42. A permit is required, but is exempt from the permit fee. Application must be on file six business days prior to the event.

(Code 2006, § 12.05(5); Ord. No. O7-2-10, § 3, 7-27-2010)

### Sec. 6-146 - Application.

(1) *Form.* A person desiring to secure a permit shall make application to the village clerk-treasurer. The application must be received a minimum of six working days prior to the event.

(2) *Identification.* The applicant shall present to the village clerk-treasurer a valid form of government-issued identification bearing the applicant's photograph.

(Code 2006, § 12.05(6)(a), (b); Ord. No. O7-2-10, § 3, 7-27-2010)

### Sec. 6-147 - Other permits.

Where applicable, the applicant shall present the village clerk-treasurer with the following for examination:

(1) A valid retail food permit issued by the county health department; and

(2) A seller's permit as required by Wis. Stats. § 77.52.

(Code 2006, § 12.05(6)(c); Ord. No. O7-2-10, § 3, 7-27-2010)

### Sec. 6-148 - Fees and duration.

*Annual.* An annual permit shall be valid from February 1, or the day of its issuance, through January 31 the following year, unless sooner revoked. The fee for a direct sales permit and the fee for a solicitor's permit shall be on file in the office of the village clerk-treasurer.

(Code 2006, § 12.05(7); Ord. No. O3-3-05, 3-22-2005; Ord. No. O7-2-10, § 3, 7-27-2010)

### Sec. 6-149 - Procedure for granting permit.

(1) *Public safety department review.* The public safety department shall review completed applications. The application may be denied by the public safety department if the public safety department determines any of the following:

(a) That any portion of the application is false; or

(b) That the applicant has been convicted of a violation of an ordinance or law which substantially relates to the activity described in the application; or

(c) That authorities have received valid or substantial complaints against the application where similar business was conducted; or

(d) That the applicant failed to comply with any applicable provision of this section.

(2) *Clerk-Treasurer approval.* If the public safety department approves the issuance of the permit, the village clerk-treasurer may grant the permit without further review.

(3) *Appeal.* Any applicant whose application has been denied by the public safety department may appeal such determination to the public works and protection committee, subject to final disposition by the village board. Appeal from a decision of the village board shall be to the circuit court for the county.

(4) *Effect of denial of application or appeal.* An applicant whose permit has been denied by the public safety department or whose appeal has been denied by the village board may not apply for a permit for a period of one year from the date of the original application.

(Code 2006, § 12.05(8); Ord. No. O7-2-10, § 3, 7-27-2010)

## Sec. 6-150 - Direct sales regulations.

All direct sales shall comply with the following regulations:

(1) *Location.* The direct sales permit will cover one location only, and must be posted in an area visible to customers at that location.

(2) *Insurance.* The direct sales application must include a certificate of insurance and indemnification with the village named as an additional insured, with $1,000,000.00 coverage. Should a certificate of insurance lapse or otherwise fail to be in force, a direct sales permit shall be considered invalid.

(3) *Signs.* No signs may be placed on village rights-of-way or poles.

(4) *Litter.* No direct seller shall allow rubbish or litter to accumulate in or around the area in which he is conducting business, whether generated by the direct seller's business or the public at large. At least one clean, plastic-lined trash container clearly marked for litter shall be kept and maintained in the area by the direct seller.

(5) *Noise.* No direct seller shall make any loud noises or use any sound-amplifying device to attract customers if the noise produced is capable of being plainly heard outside of a 75-foot radius from the source.

(6) *Special events.* No person shall engage in direct sales at a special event without permission of the public safety department.

(7) *Display of permits.* A direct seller shall prominently display the permit issued under this division, as well as any other permits required for the operation, in an area visible to all customers.

(8) *Time limitations.* No direct sales shall occur between 9:00 p.m. and 8:00 a.m.

(9) *Ramps.* Sales are prohibited in any location where access to a disabled curb ramp or bus loading zone would be hindered.

(10) *Use of amenities.* No direct seller shall use any of the amenities, including, but not limited to, benches, flower planters, trees, shelters, kiosks, and light poles, for the display of merchandise or attachment of any equipment or advertising materials.

(11) *Permission from property owner.* A direct sales applicant shall obtain permission from the owner of the property where direct sales are to be conducted in, on, or above. Proof of such

permission shall be filed with the village clerk-treasurer at the time of application for a permit. The permittee shall possess such proof at the location where direct sales are occurring at all times while engaged in direct sales activity.

(12) *Direct sales on public property.* Direct sales are not permitted on public property. No person may engage in direct sales on a street unless conducted from a motor vehicle under the following limitations:

a. *Warning lights.* The vehicle from which sales are conducted shall display the warning lamps described in Wis. Stats. § 347.26(6)(a);

b. *Obstruction of traffic.* The vehicle shall remain stationary only as long as necessary to complete a sales transaction and in no case shall remain stationary longer than ten minutes, shall be positioned when stationary in a manner which does not obstruct a normal traffic lane, and shall be operated in a manner which does not obstruct the normal flow of traffic; and

c. *Insurance.* A permittee must file a certificate of insurance and indemnification meeting the requirements set by the village board with the village clerk-treasurer prior to the issuance of a permit. Should the certificate lapse or otherwise fail to be in force, the permit shall be considered invalid.

(Code 2006, § 12.05(9); Ord. No. O3-2-05, 3-22-2005; Ord. No. O7-2-10, § 3, 7-27-2010)

## Sec. 6-151 - Solicitation regulations.

All solicitation shall comply with the following regulations:

(1) *Disclosure.* After the initial greeting and before any other statement is made to a prospective customer, a solicitor shall identify himself, disclose the name of the company or organization he is affiliated with, if any, and the identity of goods or services offered for sale.

(2) *Identification.* A solicitor shall display on his person the permit issued by the village, if applicable, and possess on his person a valid form of government-issued identification bearing the permittee's photograph at all times while engaged in solicitation.

(3) *Soliciting contrary to sign.* A solicitor shall not call at a place where a sign is displayed bearing the words "No Soliciting," "No Peddlers," or words of similar meaning.

(4) *State law compliance.* A solicitor shall comply with the applicable provisions of Wis. Stats. ch. 423.

(5) *Streets.* Solicitation shall not occur in streets.

(6) *Time limitations.* No solicitation shall occur between the hours of 9:00 p.m. and 9:00 a.m., except by appointment. (Code 2006, § 12.05(10); Ord. No. O7-2-10, § 3, 7-27-2010)

## Sec. 6-152. - Suspension, revocation and nonrenewal.

A permit may be suspended, revoked, or nonrenewed for a violation of any provision of this section or a violation of a statute, ordinance, or regulation substantially related to the permitted activity. A hearing for the suspension, revocation, or nonrenewal of a permit shall be conducted before the public works and protection committee. At the conclusion of the hearing, the public works and protection committee shall recommend to the village board that the license be suspended for not less than ten days nor more than 90 days or revoked if it finds that the permittee committed a violation. The village board shall consider and take action on the recommendation of the public works and protection committee within 45 days after the committee adjourns the hearing. Appeal from a decision of the village board shall be to the circuit court for the county. (Code 2006, § 12.05(11))

## Sec. 6-153 - Penalties.

(1) *Forfeiture.* Any person violating a provision of this chapter shall be subject to a forfeiture of not less than $1.00 nor more than $1,000.00 for each offense.

(2) *License suspension.* A court shall suspend any permit issued under this chapter for not less than ten nor more than 30 days if the court finds that the permittee committed a violation within 24 months after committing one previous violation.

(3) *License revocation.* A court shall revoke any permit issued under this chapter if the court finds that the permittee committed a violation within 24 months after committing two previous violations.

(4) *Counting.* For purposes of counting previous violations, multiple violations arising out of the same incident and on the same date shall be considered a single violation. (Code 2006, § 12.05(12))

## Sec. 6-154 - Wisconsin Statutes not to apply.

Wis. Stats. ch. 68 shall not apply to the administrative process outlined in this division.

(Code 2006, § 12.05(13))

## Sec. 6-155 - Validity of permits.

Any permits granted for the 2004 calendar year prior to the adoption of the ordinance from which this division is derived shall remain valid after the passage of the ordinance from which this division is derived until the end of the license year or revocation. However, upon passage and publication of the ordinance from which this chapter is derived, such licenses shall be subject to the regulations prescribed herein.

(Code 2006, § 12.05(14))

## Sec. 6-156 - Managed market.

(1) *Intent.* To permit an organized, outdoor market to sell or promote goods, food and merchandise, in which the village works direct with one manager who shall be responsible for the permit application, the set up and the acts of the approved merchants participating in the market during established dates and times. This section does not apply to a second-hand article dealer or flea market, of which provisions are set forth in Wis. Stats. § 134.71.

(2) *Application.* A person desiring to manage a market of merchants on nonresidential property shall complete an application to the village clerk-treasurer. The application must be received a minimum of 15 days prior to the start of the market. Approval of the application may require additional conditions as deemed necessary for the health, safety and welfare of the community.

(3) *Other permits.* Where applicable, the manager shall be responsible for any other permit required by the village or by the county.

(4) *Fees and duration.* The fee for a permit of a managed market shall be on file in the office of the clerk-treasurer. A permit shall only be valid for the duration identified for the managed market within a calendar year.

(5) *Procedure*. With review and approval by village inspection and public safety, the village clerk-treasurer may grant the permit to a market manager provided that the following are in order:

(a) Completed application, including, but not limited to, name and contact information of the participating merchants, dates and hours of the market, permission from the property owner, and site layout;

(b) Compliance to the regulations set forth in section 6-150, unless otherwise approved by the public safety department; and

(c) Site layout review and approval by the inspection and public safety department.

(Ord. No. O4-2-13, § 2, 4-23-2013)

**Secs. 6-157—6-179. - Reserved.**

## ARTICLE V. - RESALE OF GREEN BAY PACKER TICKETS

FOOTNOTE(S):--- (2) --- Editor's note— Ordinance No. O8-1-12, adopted Aug. 13, 2012, repealed §§ 6-179—6-182, and recreated similar provisions to read as herein set out. Former §§ 6-179—6-182 derived from § 12.055 of the 2006 Code; Ord. No. O7-3-97, adopted July 22, 1997; Ord. No. O5-1-00, adopted May 9, 2000; Ord. No. O6-9-02, adopted June 25, 2002; Ord. No. O7-4-03, adopted July 29, 2003; and Ord. No. O8-1-09, adopted Aug. 25, 2009.

**State Law reference—** Reselling of tickets, Wis. Stats. §§ 42.07, 66.0410. (Back)

### Sec. 6-180 - Registration.

The registration, investigation, appeal and revocation procedures found in sections 6-114—6-181 shall be applicable to those persons registered to conduct the business of or engaging in the buying and selling above face value of Green Bay Packer tickets except there shall be a fee of $200.00 per NFL season and the applicant will be required to secure a liability policy in the sum of $1,000,000.00 naming the village as an additional insured to protect the village from any claim or lawsuit. Applicants will be processed for photo identification which shall be worn by that person while engaged in the buying and selling above face value of Green Bay Packer tickets the day of any Green Bay Packer home game at Lambeau Field within the sale area designated by the village. Persons selling Green Bay Packer tickets for face value or less are exempt from this section. (Ord. No. O8-1-12, § 1, 8-13-2012)

### Sec. 6-181 - Designated sale area.

Any person, including the original ticket holder, conducting the business of or engaged in the buying and selling above face value of any ticket the day of any National Football League game at Lambeau Field shall conduct such business in a designated area or by permission of a private property owner. The designated area is defined as the public right-of-way of Armed Forces Drive from the intersection of Armed Forces Drive and Oneida Street to a point 270 feet east of said intersection and the eastern one-half of the public right-of-way of Oneida Street inclusive of the northbound lanes of Oneida Street from the intersection of Lombardi Avenue and Oneida Street to a line extending from the southern boundary of the Armed Forces Drive right-of-way, specifically displayed in the following map. For any special event at Lambeau Field including, but not limited to, a National Football League game, no person may sell above face value any ticket in the Lambeau Field parking lot, or any street or sidewalk or from any vehicle or bicycle at any time on the day of the special event at Lambeau Field. (Ord. No. O8-1-12, § 1, 8-13-2012)

### Sec. 6-182. - Penalty.

Any person adjudged in violation of any provision of this article shall forfeit not less than $500.00 or more than $1,000.00 for each violation per day plus costs of prosecution. Each violation shall constitute a separate offense. The bond schedule for the first offense shall be $500.00 plus costs. Persons in violation of this article are further subject to confiscation of tickets. (Ord. No. O8-1-12, § 1, 8-13-2012)

State law reference— Reselling of tickets, Wis. Stats. § 66.0410.

### Secs. 6-183—6-202 - Reserved.

## ARTICLE VI. - CIRCUSES AND CARNIVALS

FOOTNOTE(S):--- (3) --- State Law reference— Amusement places, license regulations, Wis. Stats. § 175.20 et seq. (Back)

### Sec. 6-203 - License required.

No person shall operate any circus or carnival where the public is admitted without first having obtained a license under this article. (Code 2006, § 12.06(1))

### Sec. 6-204 - Fees.

The owner or operator of each circus or carnival to which the public is admitted shall, upon application for a license, pay to the village treasurer the fee which is on file in the village clerk's office.

(Code 2006, § 12.06(2))

### Sec. 6-205 - Exception.

This article shall not apply to any performance or show which is sponsored by the village parks, recreation and forestry department. (Code 2006, § 12.06(3))

### Secs. 6-206—6-233 - Reserved.

## ARTICLE VII - MOBILE HOMES AND MOBILE HOME PARKS

FOOTNOTE(S):--- (4) --- State Law reference— Mobile homes, Wis. Stats. § 66.0435. (Back)

### Sec. 6-234 - State laws adopted.

The provisions of Wis. Stats. § 66.0435, and the definitions therein are hereby adopted by reference.

(Code 2006, § 12.07(1))

### Sec. 6-235 - Parking permit fee.

There is hereby imposed on each occupied, nonexempt mobile home located in the village a monthly parking fee as determined in accordance with Wis. Stats. § 66.0435. Such fees shall be paid to the village treasurer on or before the tenth day of the month following the month for which such fees are due.

(Code 2006, § 12.07(2))

### Sec. 6-236 - Park license required.

No person shall establish or operate upon such property owned or controlled by him within the village a mobile home park without having first secured a license therefore from the village board. The application for such license shall be accompanied by a fee on file in the office of the clerk-treasurer for each space in the existing or proposed park. The license shall expire one year from the date of issuance.

(Code 2006, § 12.07(3))

### Sec. 6-237 - Nonexempt mobile homes.

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

(2) Occupants or owners of nonexempt mobile homes shall remit such fees directly to the village clerk-treasurer as provided in section 6-235. The licensee of a mobile home park shall collect such fees from each occupied, nonexempt mobile home therein and remit such fees to the village clerk-treasurer as provided in section 6-235

(3) Owners of nonexempt, occupied mobile homes, upon receipt of notice from the village clerk-treasurer of their liability for the monthly parking permit fee, shall remit to the village clerk-treasurer a cash deposit in an amount on file in the office of the clerk-treasurer to guarantee payment of such fees when due to the village treasurer. The licensee of a mobile home park shall collect such cash deposits from each occupied, nonexempt mobile home therein and remit such deposits to the village clerk-treasurer. Upon receipt of a notice from the owner or licensee that the nonexempt, occupied mobile home has been or is about to be removed from the village, the village clerk-treasurer shall apply such cash deposit to reduce any monthly parking permit fees for which such owner is liable and refund the balance, if any, to such owner. (Code 2006, § 12.07(4))

### Sec. 6-238 - Parking outside licensed park prohibited.

No person shall park or occupy any mobile home on any premises which is situated outside an approved mobile home park. The parking of only one unoccupied mobile home in any accessory private garage building or in a rear yard is permitted, provided that no living quarters shall be maintained or business practiced in such mobile home. (Code 2006, § 12.07(5))

### Sec. 6-239 - Inspection and enforcement.

No mobile home park license shall be issued until the village clerk notifies the health officer, director of public safety and building inspector or their authorized agents of such application and these officials inspect or cause to be inspected each application and the premises to determine whether the applicant and the premises on which mobile homes will be located comply with the regulations, ordinances and laws applicable thereto. These officials shall furnish to the village board the information derived from such investigation and a statement as to whether the applicant and the premises meet the requirements. No license shall be renewed without reinspection of the premises. For the purpose of making inspections and securing enforcement, such officials or their authorized agents may enter on any premises on which a mobile home is located or about to be located and inspect the same and all accommodations connected therewith at any reasonable time. (Code 2006, § 12.07(6))

### Secs. 6-240 - 6-256 - Reserved.

## ARTICLE VIII. - MASSAGE ESTABLISHMENTS, MASSAGE TECHNICIANS AND EMPLOYEES

## DIVISION 1. - GENERALLY

### Sec. 6-257. - Regulation.

No person shall suffer, cause or permit the operation of a massage establishment or for a person to operate as a massage technician, agent, manager or employee, except in strict compliance with this article. (Code 2006, § 12.10(1); Ord. No. 4-1-86, 4-22-1986)

### Sec. 6-258. - Definitions.

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

*Manager* means the operator or an agent licensed under this article who shall not be licensed as a massage technician.

*Massage* means any process or procedure consisting of rubbing, stroking, kneading or tapping by physical or mechanical means upon the external parts or tissues of the body of another for a consideration.

*Massage establishment* means a place of business wherein private massage is practiced, used or made available as a principal use of the premises.

*Massage room* means the area where private massage is performed.

*Massage technician* means a person who practices, administers or uses or offers to practice, administer or use massage for a consideration.

*Operator* means any person licensed by the village to operate a massage establishment.

*Patron* means any person who receives a massage under such circumstances that it is reasonably expected that he will pay money or give any consideration therefor.

*Sexual or genital parts* means and includes the genitals, pubic area, buttocks, anus or perineum of any person or the vulva or breasts of a female.

*Waiting area* means an area adjacent to the main entrance that is separate from any area where massages are given.

(Code 2006, § 12.10(2); Ord. No. 4-1-86, 4-22-1986)

### Sec. 6-259 - Exceptions.

This section shall not apply to the following classes of individuals while engaged in the duties of their respective professions:

(1) Physicians, surgeons, chiropractors, osteopaths, masseurs or physical therapists licensed or registered to practice their respective professions under the laws of the state or nurses registered under the laws of the state, acting under their direction and control.

(2) Barbershops and beauty parlors, barbers and beauticians licensed under the laws of the state, provided that such massage as is practiced is limited to the head and scalp.

(3) Accredited high schools and colleges and coaches and trainers therein while acting within the scope of their employment. (Code 2006, § 12.10(8); Ord. No. 4-1-86, 4-22-1986)

### Sec. 6-260 - Operation without a license deemed a public nuisance.

The operation of a massage establishment without a license or the activity of an individual as a massage technician without a license is deemed a public nuisance and may be enjoined by the village.

(Code 2006, § 12.10(9); Ord. No. 4-1-86, 4-22-1986)

### Sec. 6-261. - Penalty.

Any person violating any provision of this article shall be subject to a forfeiture of $500.00. Each day of violation of operating without required licenses and each violation of any provision thereof shall constitute a separate offense. (Code 2006, § 12.10(10); Ord. No. 4-1-86, 4-22-1986)

### Secs. 6-262 - 6-285 - Reserved.

## DIVISION 2. - LICENSES

### Sec. 6-286. - Massage establishment license.

(1) No person shall suffer, cause or permit the conduct of a massage establishment without having first obtained a license therefor from the village board. A separate license shall be acquired for each such establishment.

(2) No license shall be granted for any establishment, the main entrance to which is within 75 feet of the main entrance to a residence or of the common entry hall to residences, nor for any room in any hotel or motel.

(3) Applications shall be made in writing on forms supplied by the village clerk-treasurer. If application is made for a location not previously licensed, the village clerk-treasurer shall, by regular mail, notify all property owners and registered electors within 250 feet of the proposed location at least ten days before the hearing on the granting of such license.

(4) All applications shall include:

(a) A nonrefundable fee of $150.00;

(b) The location and mailing address of the proposed establishment;

(c) For an individual, each person of a partnership or joint venture or agent of a corporation:

1. Name and present address;

2. The two immediately previous addresses and dates of residence at each;

3. Height, weight, color of hair and eyes, social security number, written proof of age, full set of fingerprints and two photographs not more than 30 days old and at least two inches by two inches;

4. The business or occupation for the two years immediately preceding the date of application;

5. Whether a similar license had been revoked or suspended and, if so, the reason therefor and the location thereof; and

6. Whether convicted of any crime or ordinance violation other than traffic offenses within the past three years and, if so, a listing of the same and the locations thereof.

(d) If the application is a corporation, the names and addresses of each officer, director and stockholder of such corporation together with the extent of the ownership of each and a statement whether such officer, director or stockholder holds office or stock in any other corporation conducting a similar business in the state. Such application shall be made by an agent registered as such who shall have been a resident of the village for at least 90 days;

(e) All phone numbers of the proposed establishment;

(f) The names, addresses and phone numbers of all persons employed by the applicant at the proposed establishment at the time of the application;

(g) Certification of compliance of the proposed premises with applicable provisions of this Code or, in the alternative, applicant shall file a bond assuring that any work required to be done to bring the premises into compliance therewith shall be accomplished prior to the opening of business. Compliance with such codes shall be conditions precedent to the opening of business; and

(h) The application shall contain a statement signed by the applicant and each individual of a partnership or joint venture that all information contained therein is true and correct.

(5) The issuance of this license shall allow for the licensing of up to three additional managers for each establishment. (Code 2006, § 12.10(3); Ord. No. 4-1-86, 4-22-1986; Ord. No. O9-3-95, 9-26-1995)

**Sec. 6-287 - Massage technician's and manager's license.**

(1) No person shall act or operate for a consideration as a massage technician or manager without having first obtained a license to do so. Any person who is issued a license of registration by the state department of regulation and licensing pursuant to subchapter XI of Chapter 440 of the Wisconsin Department of Regulation and Licensing Administrative Code is exempt from this subsection.

(2) Applications for licenses shall be in writing on forms supplied by the village clerk-treasurer and shall include:

(a) A nonrefundable fee of $50.00;

(b) The applicant's full name and present address, social security number, written proof of age in excess of 18 years, height, weight, color of hair and eyes, full set of fingerprints and two photographs not more than 30 days old and at least two inches by two inches;

(c) The applicant's two previous addresses and dates of residence at each;

(d) The applicant's business, occupation or employment during the two years immediately preceding the date of application;

(e) Whether the applicant has had a similar permit revoked or suspended and, if so, the reason therefor and the location thereof;

(f) Whether the applicant has been convicted of any crime or ordinance violation other than traffic offenses within the past three years and, if so, a listing of the same and the locations thereof;

(g) For technicians only, a certificate from a licensed physician that the applicant has been examined and found to be free of communicable diseases and showing that such examination occurred less than 30 days prior to the date of application;

(h) The name and address of the licensed massage establishment by which the applicant is employed; and

(i) A statement signed by the applicant that all information contained therein is true and correct.

(Code 2006, § 12.10(4); Ord. No. 4-1-86, 4-22-1986; Ord. No. O1-2-00, 1-11-2000)

## Sec. 6-288 - Granting of licenses.

(1) The director of the public safety department, or an agent appointed by the director, shall investigate all applications to ascertain if the same are proper and to ascertain if the granting of the license is consistent with the public interest of the village, including information as to whether there have been violations of any federal, state or local law directly related to the licensed activity. A report concerning the qualifications of such applicant shall be submitted to the village clerk-treasurer prior to the granting of a license.

(2) The village clerk-treasurer shall grant a license within 30 days of application unless it is shown for a massage establishment license that the operation as proposed by the applicant does not comply with all applicable state laws and village ordinances and for all licenses that the applicant or any partner or officer, director or stockholder of a corporate applicant has been convicted in a court of competent jurisdiction of an offense under Wis. Stats. ch. 944, involving substances included in Wis. Stats. ch. 161, subch. II, or of an offense against the person or property of another within the past three years, that the information required on the application is incomplete or that any applicant has knowingly or with the intent to deceive made any false, misleading or fraudulent statement of fact in the application or any other document required by the village in conjunction therewith or that the applicant has not resided in the village for at least 90 days prior to the date of the application.

(3) In the event of denial, the applicant shall receive written notification thereof within ten days after such denial setting forth the reasons for the denial and the right to request a hearing before the village board to determine whether grounds for such denial exists.

(4) Licenses granted by the village board shall expire one year from the date of granting. Reapplication therefor shall be not less than 60 days prior to such expiration date and shall be the sole responsibility of the applicant.

(5) No license shall be transferred between locations or persons and no massage establishment license shall be sold or be subject to transfer of corporate assets or change of corporate officers or directors.

(6) The massage technician's license does not entitle the holder to operate or manage a massage establishment unless the technician is the sole proprietor of the establishment and employs no other person in the business.

(Code 2006, § 12.10(5); Ord. No. 4-1-86, 4-22-1986; Ord. No. O11-2-95, 11-28-1995)

## Sec. 6-289 - Grounds.

The license granted herein may be revoked or suspended for up to six months by the village board:

(1) If the applicant has made or recorded any statement required by this section, knowing it to be false or fraudulent or intentionally deceptive;

(2) For violation of any provision of this section;

(3) If a technician's or manager's license, after one conviction of any offense under Wis. Stats. ch. 944, an offense involving substances included in Wis. Stats. ch. 161, subch. II, or of an offense against the person or property of a patron, whether such occurred on or off the premises of the establishment; and

(4) If an establishment license, after one conviction of any establishment personnel of an offense under Wis. Stats. ch. 944, an offense against the person or property of a patron or of an offense involving substances in Wis. Stats. ch. 161, subch. II, where there is shown the participation or knowledge of any other establishment personnel or of any individual within the business structure of the applicant. (Code 2006, § 12.10(7)(a); Ord. No. 4-1-86, 4-22-1986)

## Sec. 6-290 - Notice and hearing.

No license shall be revoked or suspended by the village board except upon due notice and a hearing to determine whether grounds for such action exist. The notice shall be in writing and shall state the grounds of the complaint against the licensee. The notice shall be served upon the licensee at least 15 days prior to the date of the hearing and shall state the time and place thereof. The licensee shall be entitled to be heard, be represented, to cross examine opposing witnesses and to present witnesses in his own behalf under the subpoena of the village, if such is required. The hearing shall be stenographically recorded and a copy of the transcript shall be available to the licensee at the expense of the licensee. The village board shall decide the matter and prepare a written decision which shall be filed with the village clerk and a copy thereof mailed to the licensee within 20 days after the hearing.

(Code 2006, § 12.10(7)(b); Ord. No. 4-1-86, 4-22-1986)

## Secs. 6-291 - 6-309 - Reserved.

## DIVISION 3. - REGULATIONS

### Sec. 6-310 - Compliance—By establishments.

Each establishment shall at all times maintain and comply with the following regulations:

(1) The establishment shall comply with all state laws and all ordinances of the village;

(2) Only one nonflashing business sign clearly identifying the establishment as a massage establishment shall be posted at the main entrance. No description of services shall be permitted on such sign;

(3) No establishment shall be open for business between the hours of 10:00 p.m. and 8:00 a.m.;

(4) Only persons licensed under this article shall be employed as massage technicians by the establishment;

(5) The practice of all massage technicians employed by the establishment shall be limited to the licensed premises;

(6) No person under the age of 18 years shall be permitted on the premises unless said person is obtaining a massage and is accompanied by a parent or guardian;

(7) No intoxicating beverages or substances included in Wis. Stats ch. 161, subch. II, shall be permitted in the licensed establishment. Food shall be permitted only when there is no charge therefor and when a food preparation area, including sink with hot and cold running water, is a part of the establishment. This section will not apply if the establishment is a health spa or other recreational facility holding a class "B" or a "class B" beer, liquor or combination license and the intoxicating beverages are kept separate from the massage area;

(8) The establishment shall provide a waiting area for patrons separate from any area wherein massages are given. There shall be direct access to this area from the main entrance or hallway connected only to the main entrance;

(9) The operator or a licensed manager shall be present on the premises at all times during hours of operation and shall be responsible for operation of the establishment;

(10) The establishment shall permit inspections of the premises at any time during business hours by the building inspector, fire inspector, health inspector or personnel of any law enforcement agency;

(11) The establishment shall keep current records of the names and addresses of its massage technicians, agents, managers and employees and the date of employment and termination of each. Such records shall be open to inspection by any of the personnel listed in subsection (10) of this section; and

(12) The establishment shall report any change of fact required on the application form and all personnel changes to the village clerk within ten days after change.

(Code 2006, § 12.10(6)(a); Ord. No. 4-1-86, 4-22-1986; Ord. No. O3-1-94, 3-22-1994; Ord. No. O9-3-95, 9-26-1995)

### Sec. 6-311 - Same—By technician.

Each technician shall at all times comply with the following regulations:

(1) The technician shall practice only on the premises of a licensed massage establishment;

(2) A licensed technician may give chair massages off premises;

(3) The technician shall massage only patrons over the age of 18 years unless accompanied by a parent or guardian;

(4) No technician shall administer a massage:

a. If such technician believes, knows or should know that he is not free of any contagious or communicable disease or infection; and

b. To any massage patron exhibiting any skin fungus, skin infection, skin inflammation or skin eruption.

(5) The technician shall report any change of fact required in the application form to the village clerk within ten days after such change;

(6) No person in a massage establishment shall place his hands upon, touch with any part of his body, fondle in any manner or massage a sexual or genital part of any other person;

(7) No person in a massage establishment shall expose his sexual or genital parts or any portion thereof to any other person nor expose the sexual or genital parts or any portion thereof of any other person;

(8) No person shall, while in the presence of any other person in a massage establishment, fail to conceal with a fully opaque covering the sexual or genital parts of his body; and

(9) No person in a massage establishment shall, for a consideration, offer to perform or to make available, permit or in any way participate in the performance of any act prohibited by subsections (5)—(7) of this section.

(Code 2006, § 12.10(6)(b); Ord. No. 4-1-86, 4-22-1986; Ord. No. O9-4-92, 7-22-1992; Ord. No. O9-3-95, 7-26-1995)

**Secs. 6-312 - 6-372 - Reserved.**

## ARTICLE IX - CIGARETTE AND TOBACCO PRODUCTS RETAILERS

FOOTNOTE(S):--- (5) --- State Law reference— Authority to require, Wis. Stats. § 134.65. (Back)

### Sec. 6-373 - License required.

No person shall sell cigarettes or tobacco products in the village without first obtaining a license from the village clerk-treasurer. The provisions of Wis. Stats. § 134.65 are hereby adopted and made a part of this article by reference. (Code 2006, § 12.12(1); Ord. No. O6-7-98, 6-23-1998)

### Sec. 6-374. - License fee.

The cigarette retailer's license fee shall be on file in the office of the clerk-treasurer which shall be paid to the village before the license is issued. This license fee shall be applicable to all license

applications for the licensing period beginning July 1. (Code 2006, § 12.12(2); Ord. No. O6-7-98, 6-23-1998)

**Secs. 6-375 - 6-391 - Reserved.**

# ARTICLE X - ESCORT SERVICES

## Sec. 6-392. - Definitions.

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

*Employee* means an escort whose name is furnished by an escort service, is referred to a customer through an escort service, or is an agent, employee, independent contractor, or volunteer for an escort service shall be considered an employee of such service for the purposes of this article.

*Escort* means any person who, for consideration, accompanies or offers to accompany another person to or about social affairs, entertainment or places of amusement, consorts with another person about any place of public resort or within any private quarters, or agrees to privately model lingerie, perform a striptease, or perform in a nude or seminude state for another person.

*Escort service* means any person who, for consideration, furnishes, offers to furnish, advertises to furnish, or refers escorts.

*In call* means any arrangement whereby an escort is provided on a premises owned, leased, rented, or controlled by the escort or escort service. (Code 2006, § 12.13(1); Ord. No. O6-4-03, 6-24-2003)

## Sec. 6-393 - Exemptions.

This article does not apply to businesses, agencies and persons licensed by the state or the village pursuant to a specific statute or ordinance, and employees employed by a business so licensed and which perform an escort or an escort service function as a service merely incidental to the primary function of such profession, employment, or business and which do not hold themselves out to the public as an escort or an escort service. (Code 2006, § 12.13(2); Ord. No. O6-4-03, 6-24-2003)

## Sec. 6-394 - Regulated acts.

(1) *License and registration required.* No escort service shall operate or provide service in the village without first obtaining a license. No person shall escort in the village unless employed by a licensed escort service and properly registered pursuant to section 6-402

(2) *In calls in residential zones.* No escort or escort service may conduct in calls on residentially zoned property.

(3) *Separate license.* A license may be issued only for one escort service with one trade name. Any person, partnership, or corporation which desires to operate more than one escort service must have a separate license for each service.

(4) *Transfer prohibited.* No license or interest in a license may be transferred to any person, partnership, or corporation.

(5) *Unlawful acts.* No escort or escort service may engage in unlawful acts while acting as an escort. A violation of a criminal statute or ordinance by an escort shall be considered a violation of this article by the licensee.

(6) *Advertising.* No person may advertise indicating that an escort service is available in the village unless that service possesses a valid license. No escort service may advertise using a trade name unless that trade name is disclosed in its application. Any advertisements or escort activity conducted under an unreported trade name shall be considered unlicensed activity.

(7) *Physical contact prohibited.* No escort shall touch a customer or the clothing of a customer while exposing specified anatomical areas.

(8) *Customers under age 18.* No person shall escort or agree to escort a person under the age of 18 years. (Code 2006, § 12.13(3); Ord. No. O6-4-03, 6-24-2003)

## Sec. 6-395 - Application for license.

(1) *Application to clerk-treasurer.* Any person, partnership, or corporation desiring to secure a license shall make application to the village clerk-treasurer. The application for a license shall be upon a form approved by the village clerk-treasurer. Each applicant for a license, which shall include all partners or limited partners of a partnership applicant, and all officers, directors, and any other person who is interested directly in the control of the business for corporate applicants, shall furnish the following information under oath:

   (a) Name, address, and age;

   (b) Whether the applicant holds any interest in any other escort service license or similar license or permit;

   (c) Whether the applicant has ever had any other escort service license or similar license or permit revoked or suspended, and the reason therefor;

   (d) All convictions and pending charges of felony, misdemeanor, or ordinance violations;

   (e) Fingerprints and two portrait photographs at least two inches by two inches of the applicant;

   (f) All convictions and pending charges of felony, misdemeanor, or ordinance violations of a corporation, partnership or other organization for which the applicant was or is a director, officer, partner, or person interested directly in the control of the organization;

   (g) If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the name and address of the registered agent, and all officers and directors of the corporation, and provide a certified copy of the articles of incorporation; and

   (h) If the applicant is a partnership, the application shall specify the name and address of all partners and provide a certified copy of the partnership agreement or articles of partnership.

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

   (a) The trade name of the escort service. An escort service may operate under only one trade name per license;

   (b) The complete address of the proposed business location with a copy of the deed, lease, or other document pursuant to which the applicant occupies such premises;

   (c) The service's federal employer identification number; and

   (d) A written plan setting forth:

1. The exact nature of the business to be conducted;
2. Office organization;
3. Advertising theme and method;
4. Copies of contracts to be used with escorts and customers;
5. The method of operation of the escort service, including the hours that the service will be open to the public; and
6. The methods of promoting the health and safety of escorts.

(Code 2006, § 12.13(4); Ord. No. O6-4-03, 6-24-2003)

## Sec. 6-396 - Standards for issuance of license.

(1) *Standards.* To receive a license to operate an escort service, an applicant must meet the following standards:

(a) All persons required to be named under section 6-395(a) shall be at least 18 years of age.

(b) No person required to be named under section 6-395(a) shall have been convicted of a felony.

(c) Subject to Wis. Stats. ch. 111, no person required to be named under section 6-395(a) shall have been convicted of a law or ordinance violation involving moral turpitude, prostitution, obscenity, or another crime of a sexual nature in any jurisdiction.

(d) No person required to be named under section 6-395(a) shall have been convicted of a violation of a law or ordinance which substantially relates to the licensed activity.

(e) No person required to be named under section 6-395(a) shall have been a director, officer, partner, or person interested directly in the control of an organization that has been convicted of a violation of any law or ordinance which substantially relates to the licensed activity.

(2) *Investigation.* The department of public safety shall investigate the applicant's qualifications to be licensed.

(3) *False information.* Providing false or inaccurate information on the application or in the investigation of the application shall constitute an admission by the applicant that he is ineligible for such license and shall be grounds for denial of the application.

(4) *Lack of cooperation.* Failure or refusal of the applicant to give any information required by this section or relevant to the investigation of the application or cooperate with any investigation required by this section shall constitute an admission by the applicant that he is ineligible for such license and shall be grounds for denial of the application.

(5) *Committee review.* The public works and protection committee shall review the application and the recommendation of the department of public safety and recommend action to the village board. Should the village board fail to act upon an application within 60 days of its filing, the application shall be deemed granted, except as provided in subsection (f) of this section.

(6) *Pending charges.* If any charges are currently pending which, if resulting in a conviction, would disqualify the applicant pursuant to subsection (a) of this section, the village board may postpone action on the application until such time as the charge is resolved. Should the village board fail to act upon an application within 60 days of the resolution of the charge, the application shall be deemed granted. (Code 2006, § 12.13(5); Ord. No. O6-4-03, 6-24-2003)

## Sec. 6-397 - Fees.

A nonrefundable application fee and a license fee, both of which are on file in the office of the clerk-treasurer, shall be submitted with the application for a license.

(Code 2006, § 12.13(6); Ord. No. O6-4-03, 6-24-2003)

### Sec. 6-398 - Denial of application.

Whenever an application is denied, the village clerk shall, within 14 days of the denial, advise the applicant in writing of the reasons for such action. The applicant may appeal the decision to a court of competent jurisdiction. (Code 2006, § 12.13(7); Ord. No. O6-4-03, 6-24-2003)

### Sec. 6-399 - Renewal of license or permit.

(1) *Process.* Every license issued pursuant to this article will terminate on December 31 of the year it is issued, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the village clerk-treasurer not later than October 31 of the year in which the license will terminate. The application for renewal shall be filed with and dated by the village clerk-treasurer. The application for renewal shall be upon a form provided by the village clerk-treasurer and shall contain such information and data, given under oath or affirmation, as is required for an application for a new license.

(2) *Fee.* A license renewal fee which is on file in the office of the clerk-treasurer shall be submitted with the application for renewal.

(3) *Investigation.* The public safety department shall investigate the applicant's continuing qualifications to be licensed. (Code 2006, § 12.13(8); Ord. No. O6-4-03, 6-24-2003)

### Sec. 6-400 - Suspension, revocation, or nonrenewal of license.

(1) *Grounds.* The license granted herein may be revoked or suspended for up to six months or nonrenewed by the village board as follows:

   (a) False or fraudulent statements. If the licensee or any person required to be named under section 6-395(a) has made or recorded any statement required by this section knowing it to be false or fraudulent or intentionally deceptive;

   (b) Violation. For the violation by the licensee, an employee, or any person required to be named under section 6-395(a) of any provision of this section, the village code, or the state statutes that substantially relates to the licensed activity; or

   (c) After the conviction of the licensee, an employee, or any person required to be named under section 6-395(a) of an offense under Wis. Stats. ch. 944, an offense against the person or property of a patron, an offense involving substance in Wis. Stats. ch. 961, subch. H, or any other offense which is substantially related to the licensed activity.

(2) *Notice.* No license shall be revoked, suspended, or not renewed by the public works and protection committee except upon due notice and hearing to determine whether grounds for such action exist. Such hearing shall be held before the village board. Notice of such hearing shall be in writing and shall state the grounds of the complaint against the licensee. The notice shall be served upon the licensee at least 15 days prior to the date of the hearing and shall state the time and place thereof.

(3) *Hearing.* The licensee shall be entitled to be heard, to be represented by counsel, to cross examine opposing witnesses, to present witnesses on his own behalf under subpoena by the village board if

such is required, and the hearing may be stenographically recorded at the licensee's option and expense.

(4) *Recommendation.* Within 15 days of a hearing pursuant to subsection (c) of this section, the public works and protection committee shall submit a report to the village board including a recommendation as to what, if any, action the village board should take with respect to the license. The committee shall provide the complainant and licensee with a copy of the report.

(5) *Village board decision.* The village board shall consider the recommendation of the public works and protection committee no later than the second regularly scheduled meeting following its receipt of the board's report. The complainant and licensee may file an objection to the report and have the opportunity to present arguments supporting the objection to the village board. The village board shall determine whether arguments shall be presented orally or in writing, or both. If the village board, after arguments presented by the complainant or the licensee, finds the complaint to be true, or if there is no objection to a report recommending suspension or revocation, the license shall be suspended or revoked as provided in subsection (a) of this section. The village board shall decide the matter and shall prepare a written decision which shall be filed with the village clerk-treasurer. The village clerk shall provide the licensee a copy of the decision by certified mail at the address indicated on the license, which shall be postmarked no late than 20 days after the village board's decision.

(6) *Appeal.* If the village board suspends, revokes, or nonrenews a license, the written notice provided the licensee shall indicate that the decision may be appealed to a court of competent jurisdiction.

(Code 2006, § 12.13(9); Ord. No. O6-4-03, 6-24-2003)

## Sec. 6-401 - Responsibilities of the licensee.

(1) *Compliance.* The licensee shall ensure compliance of the service and all employees with the provisions and requirements of this article. Every act or omission by an employee constituting a violation of the provisions of this article shall be deemed the act or omission of the licensee of the escort service by which the escort is employed, 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.

(2) *Records and reports required.* Every escort and escort service shall:

(a) Provide to each patron a written contract and receipt of payment for services. The contract shall clearly state the type of services to be performed, the length of time such services shall be performed, the total amount of money such services shall cost the patron, and any special terms or conditions relating to the services to be performed;

(b) Maintain a legible written record of each transaction of any escort furnished to or arranged for on behalf of any person or customer. The record shall show the date and hour of each transaction, the name, address, and telephone number of the person requesting an escort, and the name of every escort furnished.

(3) *Availability of records and reports.* The records required by subsection (b) of this section shall be kept available and open for inspection by the department of public safety during business hours.

(Code 2006, § 12.13(10); Ord. No. O6-4-03, 6-24-2003)

## Sec. 6-402 - Registration of escorts.

(1) *Information.* All escorts shall, prior to acting as an escort, register with the department of public safety. Such registration shall include the following:

(a) Name, address, birth date, any aliases, pseudonyms, or stage names used, and telephone number;

(b) The name of the licensed escort service by which they are employed; and

(c) Photographs and fingerprinting with the department of public safety.

(2) *Identification card.* Upon registration, the department of public safety will provide to each escort an identification card containing his photograph, identity, and the escort service by which the escort is employed. The escort shall keep the card available for production at all times while acting as an escort.

(3) *Duration.* All registrations hereunder are valid for the term of the affiliated escort service's license.

(4) *Fee.* The registration fee per registration shall be on file in the office of the clerk-treasurer, and shall be paid to the public safety department to cover the costs of the identification card and administration.

(5) *Employment by multiple services.* Any escort employed by more than one escort service shall submit a separate registration for each service by which the escort is employed.

(Code 2006, § 12.13(11); Ord. No. O6-4-03, 6-24-2003)

### Sec. 6-403 - Penalties and prosecution.

(1) *Forfeiture and license revocation.*

(a) Any person, partnership, or corporation who is found to have violated section 6-394 shall forfeit a definite sum not less than $750.00 and not exceeding $2,000.00 and a court shall revoke any license issued to the person under this article; and

(b) Any person, partnership, or corporation who is found to have violated any other section of this article shall forfeit a definite sum not exceeding $1,000.00 and a court shall revoke any license issued to the person under this article.

(2) *Separate offense.* Each violation of this article shall be considered a separate offense, and any violation continuing more than one day shall be considered a separate offense.

(Code 2006, § 12.13(12); (Ord. No. O6-4-03, 6-24-2003); (Ord. No. O11-1-15, 11-24-2015)

### Sec. 6-404 - Wisconsin Statutes not to apply.

Wis. Stats. ch. 68 shall not apply to the administrative process outlined in this article.

(Code 2006, § 12.13(13); Ord. No. O6-4-03, 6-24-2003)

### Secs. 6-405 - 6-421 - Reserved.

## ARTICLE XI - WEIGHTS AND MEASURES

FOOTNOTE(S):--- (6) --- State Law reference— Weights and measures, Wis. Stats. § 98.01 et seq. (Back)

## Sec. 6-422 - Definitions.

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

*Commercial weighing or measuring devices* means those devices used or employed in establishing the size, quantity, extent, area or measurement of quantities, things, produce or articles for sale, hire or award, or in computing any basic charge or payment for services rendered on the basis of weight or measure.

*Incorrect,* as applied to weights and measures and commodities, means and includes any failure to comply with the requirements of this article.

*Package* means any commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale.

*Sealer* or *deputy sealer* means the sealer of weights and measures and deputy sealer of weights and measures to the village.

*Sell, sale* or *sold* means and includes barter or exchange and any offering or exposing for sale or possession with the intent to sell.

*Weight* means net weight when used in reference to a commodity.

*Weights and measures* means weights and measures of every kind, instruments and devices for weighing and measuring, counting or pricing and any appliances and accessories used with any or all such instruments and devices, except meters for the measurement of electricity, gas (natural and manufactured) or water when the meters are operated in a public utility system, and scales under the control of the grain and warehouse commission. (Code 2006, § 12.16(1); Ord. No. O12-1-03, 12-9-2003)

## Sec. 6-423 - Enforcement of article.

(1) *Sealer and deputy sealers powers.* Police power is hereby conferred upon the sealer and deputy sealers of weights and measures. The sealer and deputy sealers shall be provided with suitable badges or insignia of authority and in the exercise of their functions shall exhibit the badge or insignia upon demand to any person questioning their powers. They may make arrests, with or without formal warrant, of any persons violating any statute or ordinance relating to weights and measures.

(2) *Access to premises; inspection and test of any weights or commodities.* The sealer and deputy sealers may enter and go into or upon any structure or premises and may stop any person or vehicle for the purpose of enforcing this chapter. They shall inspect and test any weights or commodities which are sold or used commercially as often as necessary to secure compliance with this article. The sealer or deputy sealer shall approve for use and seal or mark with appropriate devices such weights and measures as found upon inspection and test to be correct, and shall reject and mark or tag as rejected such weights and measures as found upon inspection or test to be incorrect but which in their best judgment are susceptible of satisfactory repair. Weights and measures that have been rejected or condemned may be confiscated and may be destroyed by the sealer if not corrected as required by the sealer or if used or disposed of contrary to this article.

(3) *Issuing stop orders.* The sealer or deputy sealer shall have the power to issue stop orders, stop sale orders and disposal orders with respect to weights and measures being, or susceptible of being, commercially used and to issue stop sale orders and disposal orders with respect to packages or amounts of commodities kept, offered or exposed for sale, sold, or in process of delivery, whenever in the court of their enforcement of the provisions of this chapter they deem it necessary or expedient

to issue such orders. No person shall use, remove from the premises specified, or fail to remove from the premises specified any weight, measure or package or amount of commodity contrary to the terms of a stop use order, stop sale order or disposal order issued under the authority of this section.

(4) *Investigation of complaints.* The sealer shall investigate complaints made to him concerning violations of the provisions of this article and shall, upon his own initiative, conduct such investigations as he deems appropriate and advisable to develop information on prevailing procedures in commercial quantity determination and on possible violations of the provisions of this article and to promote the general objective of accuracy in the determination and representation of quantity in commercial transactions.

(5) *Closing out sales.* The sealer shall inspect and regulate closing out sales and other terminations of business. Upon completion of such inspection, the sealer shall submit a written report of his findings to the village clerk-treasurer. (Code 2006, § 12.16(2); Ord. No. O12-1-03, 12-9-2003)

### Sec. 6-424 - Presumptive evidence.

For the purpose of this article, proof of the existence of a weight or measure or a weighing or measuring device in or about any building, enclosure, stand or vehicle in which or from which it is shown that buying or selling is commonly carried on shall, in the absence of conclusive evidence to the contrary, be presumptive proof of the regular use of such weight or measure or weighing or measuring device for commercial purposes and of such use by the person in charge of such building, enclosure, stand or vehicle. (Code 2006, § 12.16(3); Ord. No. O12-1-03, 12-9-2003)

### Sec. 6-425 - Appointment of sealer and deputy sealers; reports and records.

The village assigned sealer or deputy sealers shall be appointed by the village board. The sealer shall keep a complete record of his work and annually shall file a report thereof with the state department of agriculture, trade and consumer protection and the village board. The sealer shall also file such other reports as may be required. (Code 2006, § 12.16(4); Ord. No. O12-1-03, 12-9-2003)

### Sec. 6-426 - Adoption of state and federal standards.

The following federal standards, state statutes and state rules are adopted by reference and shall be enforced under this chapter, with violations of such provisions subject to the penalties set forth in section 6-428.

(1) Wis. Stats. ch. 98, Weights and Measures.

(2) Wis. Admin. Code ch. ATCP 90, Packaging and Labeling.

(3) Wis. Admin. Code ch. ATCP 91, Method of Sale and Commodities.

(4) Wis. Admin. Code ch. ATCP 109, Freezer Meat and Food Service Plan Trade Practices.

(5) Wis. Admin. Code ch. ATCP 92, Scales and Scale Pits.

(6) Sections of Wis. Stats. ch. 97, pertaining to product labeling, specifically including the following:

a. Wis. Stats. § 97.03, Standards; Misbranding.

b. Wis. Stats. § 97.07, Interpretation.

c. Wis. Stats. § 97.09. Rules.

d. Wis. Stats. § 97.12, Enforcement.

(7) Section of Wis. Stats. ch. 100, pertaining to advertising, specifically including Wis. Stats. § 100.18, Fraudulent Advertising; and Wis. Stats. § 100.183, Fraud, Advertising Foods.

(8) NIST handbook 44, U.S. Department of Commerce, Specifications, Tolerances and Other Technical Requirements and Commercial Weighing and Measuring Devices.

(9) Wis. Admin. Code ch. ATCP 1254, Price Comparison Advertising.

(Code 2006, § 12.16(5); Ord. No. O12-1-03, 12-9-2003)

## Sec. 6-427 - Field standards and equipment; specifications and tolerances.

(1) There shall be supplied by the village assigned sealer or deputy sealer such field standards and such equipment as may be found necessary to carry out the provisions of this chapter. The field standards shall be certified by the state department of agriculture, trade and consumer protection upon their initial receipt and at regular intervals thereafter stipulated by the state.

(2) The specifications, tolerances and regulations for commercial weighing and measuring devices issued by the National Institute of Standards and Technology shall apply in the village except as modified by rules issued by the state department of agriculture, trade and consumer protection.

(Code 2006, § 12.16(6); Ord. No. O12-1-03, 12-9-2003)

## Sec. 6-428 - Prohibited acts.

It is unlawful for any person to do any of the following acts:

(1) Hinder, obstruct or impersonate the sealer or deputy sealer;

(2) Use or have in possession for use in buying or selling any commodity or service or sells any incorrect weight or measure;

(3) Represent in any manner a false quantity or price in connection with the purchase or sale, or any advertising thereof, of any commodity, thing or service;

(4) Use or dispose of any rejected weight or measure commodity or removes any official tag, seal, stamp or mark without written authority from the sealer or deputy sealer; and

(5) Use any weighing or measuring device in determining the quantity of any commodity or service to be sold or purchased without having the device approved and sealed by the sealer and the proper certificate obtained in accordance with section 6-429; and

(6) Violate any other provision of this article.

(Code 2006, § 12.16(7); Ord. No. O12-1-03, 12-9-2003)

## Sec. 6-429 - Responsibilities of equipment owners or users.

The owner, operator or user of any commercial weights and measures equipment, devices or associated equipment is responsible for the accuracy and maintenance of the equipment.

(1) *Notification of new devices.* It shall be the duty of every owner, operator or user to notify the village assigned sealer or deputy sealer in writing of the acquisition of any device, whether new, rebuilt or used, or of the major repair, conversion of calibration of any device already in use. The notification shall be accomplished within 72 hours of the introduction or reintroduction into use of the device.

(2) *Weight and measurers devices to bear security seals.* Commercial weights and measures devices regulated by this article shall bear security seals appropriately affixed to any adjustment

mechanisms designed to be sealed. The security seals shall bear the mark or imprint of the village assigned sealer or deputy sealer or other weights and measures official, or service persons authorized by the village assigned sealer or deputy sealer. The security seal may only be removed to facilitate repairs of devices. The village assigned sealer or deputy sealer shall be notified of the repairs and removal of the seal within 72 hours of removal or of the introduction of new, rebuilt or used device in accordance with subsection (1) of this section so that the devices may be sealed or resealed.

(3) *Transient merchants to notify the sealer or deputy sealer before any sales.* Transient merchants purchasing or selling commodities or services by weight or measure either from bulk or in packaged form shall notify the village assigned sealer or deputy sealer and receive the approval of the village assigned sealer or deputy sealer before purchasing or selling activities may be commenced. At the village assigned sealer or deputy sealer's discretion the transient merchant may be approved for a calendar year and the subsequent notification requirement may be waived. Sellers of farm produce and seafood vendors operating from other than a continuous, permanent location shall also meet these requirements. Transients operating as part of a licensed village farm market are exempted from this requirement.

(Code 2006, § 12.16(8); Ord. No. O12-1-03, 12-9-2003)

## Sec. 6-430 - Method of sale of commodities.

(1) *Liquid form of commodities to be sold by liquid measures.* Commodities in liquid form shall by sold by liquid measure and commodities not in liquid form shall be sold by weight; provided that liquid commodities may be sold by weight and commodities not in liquid form may be sold by count or measure if such methods are in general use and give accurate information as to the quantity of commodity sold.

(2) *Berries and small fruit.* Berries and small fruits may be sold by measure only if in containers having capacities of one-half dry pint, one dry pint or one dry quart.

(3) *Applicability of this section.* This section shall not apply to commodities sold in compliance with a state or federal law which prescribes another method of sale or to commodities for immediate consumption on the premises where sold.

(Code 2006, § 12.16(9); Ord. No. O12-1-03, 12-9-2003)

## Sec. 6-431 - Declaration of quantity.

(1) No commodity which is marked, tagged or labeled, or for which a sign is displayed, with a selling price based upon a price per unit of weight or measure, shall be sold unless the weight or measure of the commodity is conspicuously declared on the commodity or its tag, label or sign. If a commodity is wrapped or labeled in advance of sale with a price affixed to the commodity or wrapping, the quantity that determines that price shall appear on the package with the price even though the quantity may already appear on a counter card or sign.

(2) No commodity shall be wrapped or its container made, formed or filled so as to mislead the purchaser; nor shall the qualifying term "when packaged," or the terms "jumbo" or "giant" or "full" or words of similar import that tend to mislead the purchaser as to the amount of the commodity, be used in connection with a declaration of quantity.

(3) In addition to the order declarations required by this section, any commodity in package form, the package being one of a lot containing random weights, measures or counts of the same commodity and bearing the total selling price of the package, shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of weight, measure or count.

(Code 2006, § 12.16(10); Ord. No. O12-1-03, 12-9-2003)

## Sec. 6-432 - Variations from declared quantity.

The magnitude of permitted variations from declared quantity shall be determined as follows:

(1) The compliance of commodities sold, either in bulk or in prepackaged form, shall be based upon the results of the application of inspection procedures and tolerances set forth by the state department of agriculture, trade and consumer protection; and

(2) Commodities, both in bulk or prepackaged form, found in violation of this chapter after test and analysis of a random or statistical sample, shall be acted upon either individually or on a by-the-lot basis. (Code 2006, § 12.16(11); Ord. No. O12-1-03, 12-9-2003)

## Sec. 6-433 - Advertising commodities for sale.

Whenever a commodity in bulk or packaged form is advertised in any manner and the price of the commodity is stated in the advertisement, there shall be closely and conspicuously associated with such statement of price a declaration of the quantity, of contents offered in the case of packaged commodity, or of the price per unit and the unit based upon in the case of a bulk commodity.

(1) When the commodity is in packaged form, the quantity, as it appears on the package, shall likewise appear in the advertisement, provided that where the law or regulation required a dual declaration only that declaration setting forth the quantity in terms of the smaller unit of weight or measure (the declaration that is required to appear first on the package) need appear in the advertisement.

(2) Whenever any commodity is advertised as described, the appropriate method of sale as set forth in section 6-430 and in state statutes and rules adopted by reference shall also be applied in the advertisement.

(3) There shall not be included as part of the declaration required under this section such qualifying terms as "when packaged," "minimum," "not less than," or any other terms of similar import, nor any term qualifying a unit of weight, measure, or count, for example "jumbo," "giant," "full," and the like, that tends to exaggerate the amount of commodity in the package.

(Code 2006, § 12.16(12); Ord. No. O12-1-03, 12-9-2003)

## Sec. 6-434 - Misrepresentation of price.

(1) *Generally.* Whenever any commodity or service is sold or is offered, exposed, or advertised for sale, by weight, measure or count, the price shall not be misrepresented, nor shall the price be represented in any manner calculated or tending to mislead or deceive an actual or prospective purchaser. Whenever an advertised, posted or labeled price per unit of weight, measure or count includes a fraction of a cent, all elements of the fraction shall be prominently displayed and the numerals expressing the fraction shall be immediately adjacent to, of the same general design and style as, and at least one-half the height and width of the numerals representing the whole cents.

(2) *Cash registers and similar devices.* Prices generated by a device such as a cash register or scanning system are also affected under this section. The village assigned sealer and deputy sealer shall inspect and test such systems and monitor pricing declarations made by a relative to them, such as pricing signs, shelf tags or individually price-marked units, to ensure agreement of all prices. Prices generated by these systems shall wholly agree with posted or premarked prices for the item being sold.

(a) *Cash registers.* Each cash register used in buying and selling transactions shall be maintained in proper operating condition by its owner. All components, attachments and functions of the register shall be operating correctly as designed. All pricing representations shall be accurate.

(b) *UPC, scanning and point of sale systems.* Pricing systems utilizing a scanning device such as a handheld gun or wand, or counter-mounted scanner units at retail checkouts which read universal product code systems or other bar code labels and the like, shall be maintained in proper operating conditions and be so calibrated to accurately read the intended systems and then generate the proper description and price for the given code.

(c) *Price refunds; price information.*

1. A person who uses an electronic scanner to record the price of a commodity or thing at a price higher than the posted, tagged or advertised price of that commodity or thing at least shall refund to a person who purchases the commodity or thing the difference between the posted or advertised price of the commodity or thing and the price charged at the time of sale; and

2. A person who sells a commodity or thing and who uses an electronic scanner to record the price of that commodity or thing shall display, in a conspicuous manner, a sign stating the requirements of subsection (3)a of this section.

(Code 2006, § 12.16(13); Ord. No. O12-1-03, 12-9-2003)

## Sec. 6-435 - Coal, coke and charcoal.

(1) All coal, coke and charcoal shall be sold by weight. Unless the fuel is delivered to the purchaser in package form, each delivery of coal, coke or charcoal to an individual purchaser shall be accompanied by duplicate tickets on which, in ink or other indelible substance, there is clearly stated:

(a) The name and address of the vendor;

(b) The name and address of the purchaser; and

(c) The net weight of the delivery and the gross tare weights, from which the net weight is computed, each expressed in pounds.

(2) One of these tickets shall be retained by the vendor and the other shall be delivered to the purchaser at the time of delivery of the fuel, or shall be surrendered on demand to the village assigned sealer or deputy sealer who, if he desires to retain it as evidence, shall issue a weight slip in lieu thereof for delivery to the purchaser. If the purchaser carries away his purchase, the vendor shall be required only to give the purchaser at the time of sale a delivery ticket stating the number of pounds of fuel delivered to him. (Code 2006, § 12.16(14); Ord. No. O12-1-03, 12-9-2003)

## Sec. 6-436 - Heating oil and motor fuel delivered to premises of consumer.

All heating oils and motor fuels shall be sold by liquid measure or by net weight. In the case of each delivery of liquid fuel not in package form and in an amount greater than ten gallons in the case of sale by liquid measure or 100 pounds in the case of sale by weight, there shall be rendered to the purchaser, either at the time of delivery or within a period mutually agreed upon in writing or otherwise between the vendor and the purchaser, a delivery ticket or a written statement on which, in ink or other indelible substance, there shall be clearly and legibly stated:

(1) The name and address of the vendor;

(2) The name and address of the purchaser;

(3) The identity of the type of fuel comprising the delivery;

(4) The unit price, that is, the price per gallon or per pound, as the case may be, of the fuel delivered;

(5) In the case of sale by liquid measure, the liquid volume of the delivery, together with the print meter readings from which such liquid volume has been computed, expressed in terms of the gallon and its binary or decimal subdivisions; and

(6) In the case of sale by weight, the net weight of the delivery, together with any weighing scale readings, from which such net weight has been computed, expressed in terms of tons or pounds avoirdupois. (Code 2006, § 12.16(15); Ord. No. O12-1-03, 12-9-2003)

### Sec. 6-437 - Motor fuel, heating oil and solvents sold on premises of seller.

Every wholesaler, retailer and every other person selling or distributing motor fuel, heating oil or solvents in the village shall keep posted in a conspicuous place, accessible to the public, at his place of business and on every pump from which delivery is made directly into the fuel tank attached to a motor vehicle or into any other vessel brought into same premises by the user, a placard, sign or the like clearly stating the identity of each product dispensed, i.e., the grade, blend or mixture of the product, and the net selling price per gallon, along with the amount of all taxes per gallon thereon, except that no such placard shall be required on a computer pump whereupon the information described is legibly shown on the face.

(Code 2006, § 12.16(16); Ord. No. O12-1-03, 12-9-2003)

### Sec. 6-438 - Persons requiring license.

No person shall operate weights and measures, weighing or measuring devices and systems and accessories relating thereto, which are used commercially within the village in determining the weight, measure or count of commodities or things sold or purchased or offered or exposed for sale on the basis of weight, measure or count, unless licensed pursuant to the provisions of this article. Transients operating as a part of a licensed city farm market are exempted from this license. Those who may legally sell from bulk or who prepackage for on-premises sale by weight or measure without weighing and measuring devices shall also be licensed. (Code 2006, § 12.16(18); Ord. No. O12-1-03, 12-9-2003)

### Sec. 6-439 - Term, refund of fee; processing fee.

(1) Licenses shall be required under this article commencing January 1. All licenses shall expire or terminate on December 31 of each year. No license fee shall be refunded if a license is denied or revoked for cause.

(2) An annual processing fee shall be paid in addition to any license fee due. The amount of the annual processing fee shall be on file at the office of the clerk-treasurer.

(Code 2006, § 12.16(19); Ord. No. O12-1-03, 12-9-2003)

### Sec. 6-440 - Application.

The application for a weighing or measuring license shall be made in writing on a form provided for such purpose by the village assigned sealer or deputy sealer or the village clerk-treasurer. Such application shall state the type and number of weighing and measuring devices to be licensed, the business address where the devices are located, the applicant's full name, signature and post office address, and whether such person is an individual, firm, corporation or partnership. The names and addresses of all officers or partners shall be included. (Code 2006, § 12.16(20); Ord. No. O12-1-03, 12-9-2003)

### Sec. 6-441 - Issuance; license fee.

The village clerk-treasurer shall issue a license under this article to the applicant based on the total number of weighing and measuring devices operated by the applicant if the requirements of this article have been complied with and upon payment to the village of the applicable fee. The fee for licensing or weighing and measuring devices shall be on file with the village clerk.

(Code 2006, § 12.16(21); Ord. No. O12-1-03, 12-9-2003)

### Sec. 6-442 - Special fees.

Notwithstanding the provision for the requirement of an annual license for weighing and measuring devices, whenever a special request is made for consultation or the inspection or testing of a noncategorized weighing or measuring device, the actual expenses may be charged to the person or firm receiving the service. Such payment or charge shall be based on the current hourly rate.

(Code 2006, § 12.16(22); Ord. No. O12-1-03, 12-9-2003)

### Sec. 6-443 - Display.

All persons licensed under the provisions of this article shall immediately post their license upon some conspicuous part of the premises on which the business is conducted and the license shall remain posted for the period the license is in force. (Code 2006, § 12.16(23); Ord. No. O12-1-03, 12-9-2003)

### Sec. 6-444 - Transfer; issuance to agent or employee.

No license issued under this article may be transferred unless otherwise provided for by the ordinances of the village. No license shall be issued to or used by any persons acting for or in the employ of another. (Code 2006, § 12.16(24); Ord. No. O12-1-03, 12-9-2003)

### Sec. 6-445 - Suspension.

Notwithstanding any other provisions of this article, whenever the village assigned sealer or deputy sealer finds that business on any premises licensed under this article is conducted or managed in such a manner that there are serious or repeated violations of this chapter or violation of any ordinances or regulations of the village, the laws of the state or regulations of the National Institute of Standards and Technology relating to weights and measures, he may, without warning, notice or hearing, issue a written notice to the license holder, operator or employee in charge of the licensed premises citing such condition and specifying the corrective action to be taken. If deemed necessary, such order shall state that the license is immediately suspended and that all weighing and measuring operations are to be discontinued. Any person to whom such an order is issued shall comply immediately, but upon written petition to the village shall be afforded a hearing before the village board within 20 days of such petition. Failure to allow an inspector immediate access to the premises to determine whether such grounds exist shall be grounds for suspension. (Code 2006, § 12.16(25); Ord. No. O12-1-03, 12-9-2003)

### Sec. 6-446 - Revocation.

For serious or repeated violations of any of the requirements of this article or for interference with the village assigned sealer or deputy sealer in the performance of his duties, the village assigned sealer or

deputy sealer may permanently revoke the license issued under this article. Prior to such action, the village assigned sealer or deputy sealer shall notify the license holder in writing, stating the reasons for which the license is subject to revocation, and advising that the license shall be permanently revoked at the end of five days following service of such notice unless a request for a hearing is filed with the village board by the license holder with such five-day period.

(Code 2006, § 12.16(26); Ord. No. O12-1-03, 12-9-2003)

### Sec. 6-447 - Hearings.

The hearings provided for in this article shall be conducted by the village board at a time and place designated by the village clerk-treasurer. Based upon the record of such hearing, the village assigned sealer or deputy sealer shall be charged with enforcing the decisions of the village board. A written report of a hearing decision shall be furnished to the license holder by the village clerk-treasurer.

(Code 2006, § 12.16(27); Ord. No. O12-1-03, 12-9-2003)

### Sec. 6-448 - Fee for late payment.

An application for renewal shall be filed with the village clerk on or before December 31 of each year, together with the payment of the required fee. If the annual renewal fee is not paid prior to December 31, an additional late payment fee per establishment, which is on file in the office of the clerk-treasurer, shall be required. Establishments operating on January 15 without a proper license shall be ordered closed by the village clerk-treasurer. Failure to comply with results in the issuance of a uniform citation with current bond as set forth in this Code. Each violation and each day a violation continues or occurs shall constitute a separate offense. Firewood dealers are exempted from this provision.

(Code 2006, § 12.16(28); Ord. No. O12-1-03, 12-9-2003)

### Sec. 6-449. - Penalty fee for use of unregistered device.

Failure to make notification to the village assigned sealer or deputy sealer within 72 hours of the addition or replacement of any new or used weights and measures equipment, including any scale, pump, meter, etc., a penalty of triple the device fee herein prescribed shall be assessed. Payment of any fee mentioned in this subsection, however, shall in no way relieve any person or firm of the penalties that may be imposed for violation of this article. (Code 2006, § 12.16(29); Ord. No. O12-1-03, 12-9-2003)

## ARTICLE XII. - PAWN BROKERS AND SECONDHAND ARTICLE AND JEWELRY DEALERS

### Sec. 6-450 - Wisconsin Statutes adopted.

Wis. Stats. § 134.71 is hereby adopted and, by reference, made a part of this chapter with the same force and effect as though fully set out herein notwithstanding the below subsections. Failure to comply with any of the provisions of this ordinance shall constitute a violation of this chapter, punishable according to the penalties set forth in section 1-13, Village of Ashwaubenon Municipal Code.

(Ord. No. O2-01-10, § 1, 2-9-2010)

## Sec. 6-451 - Definitions.

*Article* means any item of value, excluding only motor vehicles, large appliances, furniture, books, tires (excluding rims), clothing other than furs, coins not set in a bezel and valued less than $20.00, postage stamps, trading cards and comic books valued less than $20.00, works of art placed on consignment by the original artist, sports equipment and memorabilia valued at $20.00, or less, shall also be exempt.

*Reportable transaction* means every transaction conducted by a pawnbroker, secondhand article and jewelry dealers in which an article or articles are received through a pawn, purchase, consignment, or trade, or in which a pawn is renewed, extended, voided, or redeemed, or for which a unique transaction number or identifier is generated by their point-of-sale software, and is reportable except:

(1) The bulk purchase or consignment of new or used articles from a merchant, manufacturer, or wholesaler having an established permanent place of business, and the retail sale of said articles, provided the pawnbroker must maintain a record of such purchase or consignment that describes each item, and must mark each item in a manner that relates it to that transaction record.

(2) Retail and wholesale sales of articles originally received by pawn or purchase, and for which all applicable hold and/or redemption periods have expired.

*Secondhand article dealer* means any person, other than an auctioneer, who engages in the business of purchasing or selling secondhand articles, with exceptions as stated in Wis. Stat. § 134.71(g).

(Ord. No. O2-01-10, § 1, 2-9-2010)

## Sec. 6-452 - When digital photos are required.

(1) The licensee must also take a color, digitized photograph of every item pawned or sold that does not have a unique serial or identification number permanently engraved or affixed, excluding only electronic media. One group photo shall suffice for mass items such as several coins acquired in one transaction. If a photograph is taken, it must be at least two inches in length by two inches in width and must be maintained in such a manner that the photograph can be readily matched and correlated with all other records of the transaction to which they relate. Such photographs must be available to the director of public safety, or the director's designee, upon request. Items photographed must be accurately depicted and submitted as digital images, in a format specified by the issuing authority, electronically cross-referenced to the reportable transaction they are associated with. Entries of required digital images shall be retained a minimum of 90 days.

(Ord. No. O2-01-10, § 1, 2-9-2010)

## Sec. 6-453 - Transactions with minors.

(1) No licensee or merchant, regardless of whether he is required to be licensed under the provisions of this article, shall buy, accept on consignment, trade or otherwise accept merchandise from any person under the age of 18 years, unless the minor first produces a notarized letter, signed by the minor's parent or guardian, granting permission to the minor to transfer an interest in the property. A pawnbroker shall not enter into a pawn transaction or good faith outright purchase of tangible personal property with a person who is less than 18 years of age.

(2) It shall not be a defense to an alleged violation of subsection (1) that the merchant reasonably believed the minor to be 18 years or older unless the minor produced a state driver's license and that identification purported to identify the minor as a person 18 years of age or older.

(Ord. No. O2-01-10, § 1, 2-9-2010)

## Sec. 6-454 - Daily reports to police.

(1) Pawnbrokers and secondhand article and jewelry dealers must submit every reportable transaction to the department of public safety daily in the following manner. Pawnbrokers and secondhand article and jewelry dealers must provide to the department of public safety all required information pursuant to state statutes, by transferring it from their computer to the web server via modem designated by the Ashwaubenon Department of Public Safety. All required records must be transmitted completely and accurately after the close of business each day in accordance with standards and procedures established by the police department using procedures that address security concerns of the pawnbroker or secondhand article and jewelry dealer and the department of public safety. The pawnbroker or secondhand article and jewelry dealer must display a sign of sufficient size in a conspicuous place on the premises, which informs all patrons that all transactions are reported daily to the department of public safety.

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

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

(4) Regardless of the cause or origin of the technical problems that prevented the pawnbroker or secondhand article and jewelry dealer from uploading the reportable transactions, upon correction of the problem, the pawnbroker or secondhand article and jewelry dealer shall upload every reportable transaction from every business day the problem has existed.

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

(6) Section 6-452 shall not apply to businesses that did not have 200 reportable transactions in the past calendar year. However, any such pawnbroker or secondhand article and jewelry dealer must follow the daily reporting procedure for each reportable transaction by submitting a written transaction form approved by the police department to the department on the business day following the date of the reportable transaction. (Ord. No. O2-01-10, § 1, 2-9-2010)

## Sec. 6-455 - Severability.

If any section of this ordinance is found to be unconstitutional or otherwise invalid, the validity of the remaining sections shall not be affected. (Ord. No. O2-01-10, § 1, 2-9-2010)

# ARTICLE XIII - SPECIAL EVENTS

## Sec. 6-456 - Definition.

"Special event" means any parade, run/walk event, exhibition, march/ceremony, or any similar display in or upon any street, park, or other public place in the village.

(Ord. No. O12-4-12, § 2, 12-18-2012)

## Sec. 6-457 - Permit required.

No person shall participate in or organize any event unless a special event application has been obtained, completed and approved by the village director of public safety.

(Ord. No. O12-4-12, § 2, 12-18-2012)

## Sec. 6-458 - Exceptions.

The provisions of this article shall not apply to:

(1) Funeral processions;

(2) Students going to and from school or participating in educational activities, provided such activity is under immediate direction and supervision of the proper school authority; and

(3) Governmental agency acting within the scope of its function.

(Ord. No. O12-4-12, § 2, 12-18-2012)

## Sec. 6-459. - Application.

The event organizer shall complete the application for special event with the village clerk at least 45 days prior to the event date. (Ord. No. O12-4-12, § 2, 12-18-2012)

## Sec. 6-460 - Fee and duration.

Event organizer is required to make respective fee payable to village and will be valid for the duration of the event only. Additionally, organizer shall reimburse the village for services provided by village personnel as determined by the director of public safety or designee.

(Ord. No. O12-4-12, § 2, 12-18-2012)

## Sec. 6-461 - Notice of rejection.

The director of public safety, or designee, shall act upon the application within five days after the filing thereof. If the application is denied, a notice of such action stating the reasons for rejection shall be mailed to the applicant by the village clerk-treasurer within seven business days after the date of which the application was filed. (Ord. No.. O12-4-12, § 2, 12-18-2012)

**Sec. 6-462 - Duties of event organizer.**

Any event organizer and participant shall comply with all special event directions and conditions and with all applicable laws and ordinances. (Ord. No. O12-4-12, § 2, 12-18-2012)

## ARTICLE XIV – Mobile Food Establishments

**Sec. 6-463 – Food Trucks.**

**(1) DEFINITIONS**

(a) "Mobile Food Establishment" means a restaurant or retail food establishment where food is served or sold from a motorized or non-motorized vehicle, trailer or cart which periodically or continuously changes location and requires a service base to accommodate the unit for servicing, cleaning, inspection and maintenance or except as specified in the Wisconsin Food Code.

(b) "Mobile" shall mean the state of being in active, but not necessarily continuous movement.

(c) "Mobile Food Vendor" means the registered owner of a mobile food establishment or the owner's agent or employee, or any business which sells edible goods from a mobile food establishment within the Village of Ashwaubenon.

(d) "Edible Goods" shall include but are not limited to:

1. Prepackaged and Prepared food including, but not limited to ice cream, hot dogs, deserts, and pizza.
2. On-site prepared food including, but not limited to shaved ice, sandwiches, and tacos.

(e) "Sell" shall mean the act of exchanging a good for profit or in return for a donation.

(f) "Service Base" means an establishment operated under license or permit of an appropriate regulatory authority where food is manufactured, stored, prepared, portioned or packaged, or any combination of these, where such food is intended for consumption at another establishment or place, and where such units are serviced, cleaned, supplied, maintained, and where the equipment, utensils and facilities are serviced, cleaned and sanitized.

(g) “Vehicle” shall mean any motor vehicle as defined by Wis. Stats. §340.01(35) or trailer as defined by Wis. Stats.§340.01(71). Vehicle shall also include any bicycle or other self-propelled device.

(h) “Vend” shall mean to sell or to transfer the ownership of an article to another for a price in money.

(2) LICENSE REQUIRED

(a) No mobile food vendor and/or mobile food establishment shall vend, sell or dispose of or offer to vend, sell or dispose of goods, wares or merchandise, produce or any other items at any place whatsoever within the Village of Ashwaubenon, without having obtained an approved license from the Office of the Village Clerk-Treasurer.

(b) All mobile food establishments used for vending food shall be licensed for such use by the Brown County Health Department and all other applicable agencies. Mobile food establishments shall acquire the appropriate licenses and permits for any additional food items not required under this subchapter if deemed necessary by the Brown County Health Department.

(c) LICENSE. Every mobile food vendor shall have a license issued from the Office of the Village Clerk-Treasurer to conduct business within the Village of Ashwaubenon. Each mobile food establishment shall be licensed separately. A mobile food establishment license shall expire on June 30 each year.

(d) LICENSE FEE. The license to operate a mobile food establishment shall be $500.00. If an applicant requests a license under this subchapter from an existing Village of Ashwaubenon based business that sells food based products, the license fee shall be $300.00.

(e) LICENSE RENEWAL. Upon renewal of license, each applicant must provide a new application, a renewal fee of $500.00, and any new permitting documentation upon the license renewal. License renewal from an existing Village of Ashwaubenon based businesses shall be $300.00. If the applicant fails to submit the application and renewal fee within thirty (30) calendar days after the expiration of the license, the applicant shall reapply as a new applicant.

(f) TRANSFER OF LICENSE. A license issued under this subchapter shall not be transferable from person to person and/or business to business. A license is valid for only one vehicle or cart and shall not be transferrable between vehicles or carts.

(g) CONTINUED USE. A license which has been granted but not in continuous use in a manner indicating an ongoing business for a period of ninety (90) days is presumed invalid and shall be subject to revocation unless authorized by the Village Board of Trustees.

(h) SURRENDER OF LICENSE; ALTERATION OF LICENSE; FAILURE TO DISPLAY LICENSE. Upon expiration of an issued license under this subchapter, the license holder shall surrender the license to the Office of the Village Clerk-Treasurer. No person shall alter or change, in any manner, any license issued under the provisions of this subchapter, and such alteration or failure of the holder of the license to display the license in a conspicuous place on the mobile food establishment or his or her person or to exhibit the license upon demand of any officer or customer or prospective vendee shall be cause for revocation of such license.

(3) LICENSE APPLICATION PROCESS.

(a) APPLICATION. Any person whom desires to operate a mobile food establishment shall apply for a license on a form promulgated by the Village Clerk-Treasurer and pay the proper license fee for each mobile food establishment managed by the person. The Village Clerk-Treasurer shall forward the application to the Department of Public Safety for review. If the Department of Public Safety approves the application, the Office of the Village Clerk-Treasurer shall issue the license to the applicant.

(b) APPLICATION DENIAL. An applicant of a mobile food establishment may be denied where:

1. The circumstances of a pending criminal charge against the applicant substantially relate to the licensed activity.
2. The applicant has been convicted of any felony, misdemeanor or other offense, the circumstances of which substantially relate to the circumstances of the particular job or licensed activity.
3. The applicant made a false statement on the application.
4. The applicant is under eighteen (18) years old.
5. The applicant is found to have unpaid civil judgment(s) which relates to the duties and responsibilities of the permitted occupation which shall be determined by the nature and the amount of the judgment, the relationship of the judgment to the purpose of the permit and the extent that the permit would allow someone to engage in further activity that would lead to unsatisfied civil judgments.

(c) APPEAL. If the Department of Public Safety denies an application for a license, the applicant may appeal within fifteen (15) days after the clerk-treasurer mails a notice of denial to the applicant. If the applicant files a

timely appeal with the clerk-treasurer, the clerk-treasurer shall schedule an appeal hearing before the Public Works & Protection Committee.

(d) ISSUANCE. The Office of the Village Clerk-Treasurer shall issue the mobile food establishment license if the applicant has satisfactorily completed the application requirements and has been approved by the Department of Public Safety.

(4) LICENSE SUSPENSION OR REVOCATION.

The Village Board of Trustees may revoke or suspend, no less than ten (10) and not more than ninety (90) days, any license under this subchapter for violation by any vendor or the vendor's employee or agent of any provision of this chapter or any State law or Village ordinance which renders future vending contrary to the public health, safety or welfare, or for fraud or misrepresentation in solicitation under this chapter.

(5) INSURANCE.

(a) LIABILITY INSURANCE. The license holder under this subchapter shall have in force liability insurance for each mobile food establishment.

(b) PROOF OF INSURANCE. As evidence of liability insurance, the licensee shall furnish a Certificate of Insurance, on a form acceptable to the Village of Ashwaubenon, evidencing the existence of adequate liability insurance naming the Village of Ashwaubenon, its employees and agents as additionally insured in an amount not less than one million dollars ($1,000,000.00). Whenever such policy is cancelled, not renewed, or materially changed, the insurer and the licensee shall notify the Village of Ashwaubenon by certified mail.

(6) SANITATION REQUIREMENTS.

(a) Mobile food establishments shall comply with all regulations of the Wisconsin Food Code and the Brown County Health Department including, but not limited to the time, temperature, plumbing, operation and maintenance for mobile food establishments.

(b) Mobile food establishments shall comply with all regulations of the Wisconsin Food Code and Brown County Health Department regarding preparation facilities, serving areas and operation areas.

(c) The licensees of the mobile food establishment or employee(s) thereof shall abide by the request of the Brown County Health Department for annual inspections of the establishment at a location designated by the health department.

(d) Authorities of the Brown County Health Department may require that mobile food establishments found to violate sanitation and health requirements to have follow-up inspections to verify compliance.

(e) Service Base Required.

1. All mobile food establishments shall have a mobile service base to store and prepare food and all supplies. No food items are allowed to be stored or prepared in a private residence or garage unless approved by the Brown County Health Department.

2. Any food item desired to be cooked or prepared on the mobile food establishment shall first be inspected by the Brown County Health Department.

3. All mobile food units shall be cleaned and serviced as often as necessary from the service base.

4. The service base shall be inspected and approved by the Brown County Health Department prior to operating the mobile food establishment.

5. All mobile food establishments shall return to its service base at least once every twenty-four (24) hours for service and maintenance.

(7) CONDUCT OF BUSINESS.

(a) REGULATIONS GENERALLY

The following regulations shall apply to mobile food establishments during the regular order of business:

1. A licensee shall not falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale or offer for sale any unwholesome or tainted edible goods, nor intentionally misrepresent to any prospective customer the purpose of his or her solicitation, the name of the business of his or her principal, if any, the source of supply of the goods, ware or merchandise which he or she sells or offers for sale or the disposition of the proceeds of his or her sales.

2. A licensee shall not use the license provided by the Village of Ashwaubenon after expiration or revocation of the license.

3. A licensee shall keep the premises in a clean and sanitary condition and the edible goods offered for sale are well covered and protected from dirt,

dust and insects. All food vendors shall comply with requirements of state and local authorities.

4. A licensee may vend, sell or dispose of, or offer to sell, vend, or dispose of goods, wares, or merchandise within the Village of Ashwaubenon between the hours of 6:00 a.m. and 9:00 p.m. All sales within the Sports and Entertainment District Zone of the Village of Ashwaubenon, shall be allowed between the hours of 6:00 a.m. and 2:00 a.m.

5. No mobile food establishment shall conduct business at a stationary location for a duration exceeding six (6) hours per location per day.

6. All persons conducting business on a sidewalk or terrace must maintain within twenty-five (25) feet of their sales location, a clean and hazard-free condition, and shall not discharge any materials, food waste, water utilized for food preparation, or cleaning liquids onto the street, sidewalk, gutters, catch basins, manholes or storm drain. Each person conducting business as a Mobile Food Establishment under the provisions of this chapter shall provide a minimum thirty-two (32) gallon trash container for placement of such litter by customers or other persons. The use of village refuse containers is strictly prohibited.

7. A vehicle or other on-street unit which is operated for the purpose of selling food from the unit shall be operated only by a person who has obtained a license or by the employee of the person who obtained a license under this subchapter.

8. No mobile food establishment may sell or vend any item upon any premise(s) if there is placed signage prohibiting the activity or without having received signed written permission.

9. All business activity relating to the mobile food establishments in the public right-of-way shall be conducted from the curbside of the vehicle at all times. No sales shall be made from a vehicle except from the curbside of said vehicle, unless otherwise authorized by the owner of private property.

10. No food service shall be prepared, sold, or displayed outside of the mobile food establishment.

11. No person shall provide or allow any dining area to the mobile food establishment, including but not limited to tables, chairs, booths, stools, benches or stand up counters. No structures other than the mobile food establishment canopy may be utilized. Tents are prohibited.

12. Signage may only be permitted when placed on the mobile food establishment. No separate free-standing signs are permitted.

13. Any special or civic event organizer desiring to hold five (5) or more mobile food establishments on the property where the event will be held shall notify the Brown County Health Department at least seven (7) business days prior to the event.

14. No mobile food establishment may sell or vend any food or beverages in glass containers or glassware.

15. No mobile food establishment may sell or offer alcoholic beverages free of charge.

(b) VEHICLE REGULATIONS.

1. Any vehicle or other on-street units used for vending food in any public street must be designed and constructed specifically for the purpose of vending the product or products to be vended.

2. Use of audio or video equipment, such as speakers, amplifying devices, video display monitors, strobe lights, etc. are prohibited when the mobile food establishment is parked and engaged in serving customers.

3. All mobile food establishments shall be entirely self-contained in regards to gas, water, electricity, and equipment(s) required for operation of the unit.

4. All mobile food vehicles must possess valid license plates and registration as provided by Chapter 341 of the Wisconsin Statutes.

5. No vehicle or unit may violate any traffic or parking statute or ordinance when stopping to make sales.

6. No mobile food establishment shall exceed thirty-six (36) feet in length and eight (8) feet in width. Excluding canopies, umbrellas, or transparent enclosures, no mobile food vehicle or unit shall exceed ten (10) feet in height.

(c) ZONING RESTRICTIONS.

1. The vendor of the mobile food establishment shall not operate where such operation may impede or inconvenience public use of alleys, sidewalks, streets, public parks and playgrounds, libraries, or other public grounds or land dedicated to public use.

2. The vendor of the mobile food establishment may not prepare, cook, sell, or vend within 300 feet of school grounds unless part of a non-profit or civic event where permission was received by the respective school and/or school district.

3. No mobile food establishment or pedestrian desiring to conduct business at the mobile food establishment shall obstruct an adjacent path or lane of travel. A path or lane of travel includes, but is not limited to sidewalks, motor vehicle lanes, bicycle lanes and other designated parking areas.

4. No more than two (2) mobile food establishments shall be allowed to conduct business on private property.

5. No mobile food vendor shall be located on any private property without written permission from the property owner. A copy of the written permission shall be kept in the mobile food unit at all times. The mobile food vendor shall comply if asked to leave the private property by the property owner or a village or county official.

6. No mobile food establishment shall conduct business within 300 feet of any fair, festival, special event or civic event that is licensed or sanctioned by the Village of Ashwaubenon unless the licensee has obtained written permission from the event sponsor.

7. No person may conduct business on a sidewalk in any of the following places:

   a. Within twenty (20) feet of the intersection of the sidewalk with any other sidewalk.

   b. Within ten (10) feet of the extension of any building entrance or doorway to the curb line.

   c. Within three hundred (300) feet of a public entrance of any business which sells a food product, during the hours the particular business is open for sale, unless written permission is granted by the business.

8. A mobile food establishment may be permitted in all zoning districts except within any residential zoning district. The subsection shall not apply to ice-cream trucks.

(8) PENALTIES.

A licensee or vendor who violates any provision of this subchapter or any regulation, rule, or order made hereunder shall be subject to a forfeiture of not less than $25.00 nor more than $500.00 for each offense.

(Ord. No. O6-1-15, 06-23-15)