

TITLE 7

Licensing and Regulation

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Licensing of Dogs; Regulation of Animals

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Sec. 7-1-1 Definitions.

- (a) **Definitions. In this Chapter**, unless the context or subject matter otherwise require, the following definitions shall be applicable:
- (1) **Owner.** Any person owning, harboring or keeping a dog, cat or other animal and the occupant of any premises on which a dog, cat or other animal remains or to which it customarily returns daily for a period of ten (10) days; such person is presumed to be harboring or keeping the dog or cat within the meaning of this Section.
 - (2) **At large.** To be off the premises of the owner and not under the control of some person either by leash or otherwise, but a dog, or cat within an automobile of its owner, or in an automobile of any other person with the consent of the owner of said dog or cat, shall be deemed to be upon the owner's premises.
 - (3) **Dog.** Any canine, regardless of age or sex.
 - (4) **Cat.** Any feline, regardless of age or sex.
 - (5) **Neutered.** A dog or cat having nonfunctional reproductive organs.
 - (6) **Animal.** Mammals, reptiles and birds.
 - (7) **Cruel.** Causing unnecessary and excessive pain or suffering or unjustifiable injury or death.
 - (8) **Law Enforcement Officer.** Has that meaning as appears in Sec. 967.02(5), Wis. Stats., and includes a humane officer under Sec. 58.07, Wis. Stats., but does not include a conservation warden appointed under Sec. 23.10, Wis. Stats.
 - (9) **Farm Animal.** Any warm-blooded animal normally raised on farms in the United States and used for food or fiber.
 - (10) **Pet.** An animal kept and treated as a pet.
 - (11) **Residential Lot.** A parcel zoned as residential, occupied or to be occupied by a dwelling, platted or unplatted and under common ownership. For the purpose of this Chapter, any vacant parcel or parcels adjoining a dwelling and under the same ownership shall constitute one (1) lot.
 - (12) **Restrain.** Includes notifying the dog or cat's owner or an officer and requesting either the owner or officer to capture and restrain the dog or cat, or capturing and restraining the dog or cat, and killing the dog or cat if the circumstances require immediate action.
 - (13) **Untagged.** Not having a valid license tag attached to a collar kept on the dog whenever the dog is outdoors unless the dog is securely confined in a fenced area.
- State Law Reference:** Sections 174.05 through 174.10, Wis. Stats.

Sec. 7-1-2 Rabies Vaccination Required for License.

- (a) **Rabies Vaccination.** The owner of a dog shall have the dog vaccinated against rabies by a veterinarian within thirty (30) days after the dog reaches four (4) months of age and revaccinated within one (1) year after the initial vaccination. If the owner obtains the dog or brings the dog into the Village of Winneconne after the dog has reached four (4) months of age, the owner shall have the dog vaccinated against rabies within thirty (30) days after the dog is brought into the Village unless the dog has been vaccinated as evidenced by a current certificate of rabies vaccination. The owner of a dog shall have the dog revaccinated against rabies by a veterinarian before the date of that immunization expires as stated on the certificate of vaccination or, if no date is specified, within two (2) years after the previous

vaccination. The certificate of vaccination shall meet the requirements of Sec. 95.21(2), Wis. Stats.

- (b) **Issuance of Certificate of Rabies Vaccination.** A veterinarian who vaccinates a dog against rabies shall complete and issue to the owner a certificate of rabies vaccination bearing a serial number and in the form approved by the Village stating the owner's name and address, the name, sex, spayed or unspayed, neutered or unneutered, breed and color of the dog, the date of the vaccination, the type of rabies vaccination administered and the manufacturer's serial number, the date that the immunization expires as specified for that type of vaccine by the Center for Disease Control of the U.S. Department of Health and Human Services and the Village.
- (c) **Copies of Certificate.** The veterinarian shall keep a copy of each certificate of rabies vaccination in a file maintained for this purpose until the date that the immunization expires or until the dog is revaccinated, whichever occurs first.
- (d) **Rabies Vaccination Tag.** After issuing the certificate of rabies vaccination, the veterinarian shall deliver to the owner a rabies vaccination tag of durable material bearing the same serial number as the certificate, the year the vaccination was given and the name, address and telephone number of the veterinarian.
- (e) **Tag to be Attached.** The owner shall attach the rabies vaccination tag or a substitute tag to a collar and a collar with the tag attached shall be kept on the dog at all times, but this requirement does not apply to a dog during competition or training, to a dog while hunting, to a dog securely confined indoors or to a dog securely confined in a fenced area. The substitute tag shall be of a durable material and contain the same information as the rabies vaccination tag. The requirements of this paragraph do not apply to a dog which is not required to be vaccinated under Subsection (a).
- (f) **Duplicate Tag.** The veterinarian may furnish a new rabies vaccination tag with a new serial number to an owner in place of the original tag upon presentation of the certificate of rabies vaccination. The veterinarian shall then indicate the new tag number on the certificate and keep a record in the file.
- (g) **Cost.** The owner shall pay the cost of the rabies vaccination and the cost associated with the issuance of a certificate of rabies vaccination and the delivery of a rabies vaccination tag.

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

(a) Dog Licenses.

- (1) It shall be unlawful for any person in the Village of Winneconne to own, harbor or keep any dog more than five (5) months of age without complying with the provisions of Sec. 174.05 through Sec. 174.10, Wisconsin Statutes, relating to the listing, licensing and tagging of the same.
- (2) The owner of any dog more than five (5) months of age on January 1 of any year, or five (5) months of age within the license year, shall annually, or on or before the date the dog becomes five (5) months of age, pay a license fee and obtain a license.
- (3) The minimum license fee under this Section shall be:
 - a Neutered males and spayed females: As determined by Village Board.
 - b Unneutered males and unspayed females: As determined by Village Board.
- (4) Upon payment of the required license fee and upon presentation of evidence that the dog is currently immunized against rabies, as required by Section 7-1-2 of this Chapter, the

Village Clerk-Treasurer shall complete and issue to the owner a license for such dog containing all information required by state law. The Village Clerk-Treasurer shall also deliver to the owner, at the time of issuance of the license, a tag of durable material bearing the same serial number as the license, the name of the county in which issued and the license year.

- (5) The owner shall securely attach the tag to a collar and the collar with the tag attached shall be kept on the dog for which the license is issued at all times, except as provided in Section 7-1-2(e).
- (6) The fact that a dog is without a tag attached to the dog by means of a collar shall be presumptive evidence that the dog is unlicensed. Any law enforcement or humane officer shall seize, impound or restrain any dog for which a dog license is required which is found without such tag attached.
- (7) Notwithstanding the foregoing, every dog specifically trained to lead blind or deaf persons is exempt from the dog license fee, and every person owning such a dog shall receive annually a free dog license from the Village Clerk/Treasurer upon application therefore.

(b) Multiple Dog Licenses

No more than three dogs are allowed in any singular residence within the Village limits.

Sec. 7-1-4 Late Fees.

The Village Clerk-Treasurer shall assess and collect a late fee as determined by Village Board from every owner of a dog five (5) months of age or over if the owner failed to obtain a license prior to April 1 of each year, or within thirty (30) days of acquiring ownership of a licensable dog or cat or if the owner failed to obtain a license on or before the dog reached licensable age. Said late fee shall be charged in addition to the required license fee. **See 7-1-25 for fee.**

Sec. 7-1-5 Rabies Quarantine.

(a) Area-Wide Rabies Quarantines.

- (1) **Area Confinement Order.** If a district is quarantined for rabies, all dogs, cats or ferrets within the Village shall be kept securely confined, tied, leashed or muzzled. Any dog, cat or ferret not confined, tied, leashed or muzzled is declared a public nuisance and may be impounded. All officers shall cooperate in the enforcement of the quarantine. The Village Clerk-Treasurer shall promptly post in at least three (3) public places in the Village notices of quarantine.
- (2) **Exemption of Vaccinated Dog or Cat from Village Quarantine.** A dog or cat which is immunized currently against rabies as evidenced by a valid certificate of rabies vaccination or other evidence, is exempt from the Village quarantine provisions of Subsection (a) if a rabies vaccination tag or substitute tag is attached to the dog's or cat's collar.

(b) Quarantine or Sacrifice of an Animal Suspected of Biting a Person or Being Infected or Exposed to Rabies.

- (1) **Quarantine or sacrifice.** A law enforcement or animal control officer shall order a dog, cat or ferret quarantined if the officer has reason to believe that the animal bit a person, is infected with rabies or has been in contact with a rabid animal. If a quarantine cannot be

imposed because the dog, cat or ferret cannot be captured or such animal exhibits actual signs of rabies, the officer may kill the animal. The officer shall attempt to kill the animal in a humane manner and in a manner which avoids damage to the animal's head. No person shall interfere with Village authorities or agents in carrying out their duties in this regard. All expenses thus incurred shall be paid by the owner or the person having custody of such dog, cat or ferret.

(2) *Sacrifice of other animals.*

- a** An officer may order killed or may kill an animal other than a dog, cat or ferret if the officer has reason to believe that the animal bit a person or is infected with rabies.
- b** Any domesticated wild animal that has bitten any person, inclusive of, but not limited to, wolf-dog hybrids, skunks and raccoons, shall be immediately destroyed by a licensed veterinarian and the proper specimen from the animal tested for rabies by the State Laboratory of Hygiene. All expenses connected therewith shall be charged to the owner or custodian of the animal.

(c) *Quarantine Procedures.*

(1) *Vaccinated Animal Bite Incidents.* Any dog, cat or ferret which has bitten any person and which shows evidence of a current rabies inoculation shall be quarantined at such place as designated by law enforcement or health authorities for a minimum period of ten (10) days. The dog, cat or ferret shall be examined by a licensed veterinarian within twenty-four (24) hours of a quarantine notice and again on the tenth (10th) day after the bite. If, in the opinion of law enforcement or health authorities, the vaccinated animal cannot be confined securely at the residence of its owner or custodian, or exhibits signs of illness as determined by a licensed veterinarian, the dog, cat or ferret shall be quarantined at a veterinary hospital under the supervision of a licensed veterinarian.

(2) *Unvaccinated Animal Bite incidents.* Any dog, cat or ferret which has bitten any person and which does not display evidence of rabies inoculation shall be quarantined within twenty-four (24) hours of the quarantine order at a veterinary hospital under the supervision of a licensed veterinarian for a minimum of ten (10) days. "Supervision of a licensed veterinarian" includes, at a minimum, examination of the animal on the first day of isolation and on the last day of isolation. If the veterinarian certifies that the dog, cat or ferret has not exhibited any signs of rabies, the animal may be released from quarantine at the end of the observation period. After such period of time, such veterinarian shall report his/her determination or findings thereof in writing.

(3) *Risk to Animal Health Due to Suspected Exposure to a Rabid Animal.*

- a** If a dog, cat or ferret is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal and if the dog, cat or ferret is not currently immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for one hundred eighty (180) days. The owner shall have the animal vaccinated against rabies between one hundred fifty-five (155) and one hundred sixty-five (165) days after the exposure to a rabid animal.
- b** If a dog, cat or ferret is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal but if the dog, cat or ferret is immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for sixty (60) days. The owner shall have the animal revaccinated against rabies as soon as possible after exposure to a rabid animal.

- c No person shall keep or harbor any dog or other domesticated animal, whether licensed or not, which is known to be, or when there is good reason to believe the same to be, mad, rabid, vicious or dangerous to the public.
- (4) ***Destruction of an Animal Exhibiting Symptoms of Rabies.*** If a veterinarian determines that a dog, cat, ferret or other animal exhibits symptoms of rabies during the original or extended observation period, the veterinarian shall notify the owner and the officer who ordered the animal quarantined and the officer or veterinarian shall kill the animal in a humane manner and in a manner which avoids damage to the animal's head. If the dog, cat, ferret or other animal is suspected to have bitten a person, the veterinarian shall notify the person or the person's physician.
- (d) **Delivery of Carcass; Preparation; Examination by Laboratory of Hygiene.** An officer who kills an animal shall deliver the carcass to a veterinarian or local health department. The veterinarian or local health department shall prepare the carcass, properly prepare and package the head of the animal in a manner to minimize deterioration, arrange for delivery by the most expeditious means feasible of the head of the animal to the State Laboratory of Hygiene and dispose of or arrange for the disposal of the remainder of the carcass in a manner which minimizes the risk or exposure to any rabies virus. The Laboratory of Hygiene shall examine the specimen and determine if the animal was infected with rabies. The State Laboratory of Hygiene shall notify the Village, the veterinarian or local health department which prepared the carcass and, if the animal is suspected to have bitten a person, that person or the person's physician.
- (e) **Cooperation of Veterinarian.** Any practicing veterinarian who is requested to be involved in the rabies control program by an officer is encouraged to cooperate in a professional capacity with the Village, the Laboratory of Hygiene, the applicable health department, the officer involved and, if the animal is suspected to have bitten a person, the person's physician.
- (f) **Responsibility for Quarantine and Laboratory Expenses.** The owner of an animal is responsible for any expenses incurred in connection with keeping the animal in an isolation facility, supervision and examination of the animal by a veterinarian, preparation of the carcass for laboratory examination and the fee for the laboratory examination.
- (g) **State Laws Adopted by Reference.** The provisions of Secs. 95.21 and 174.02(3), Wis. Stats., insofar as the same are applicable, are incorporated by reference and made a part of this Section with the same force and effect as those set forth verbatim herein. Any amendments to those sections shall be adopted by reference as if they were fully set forth herein.

State Law Reference: Secs. 95.21 and 174.02(3), Wis. Stats.

**Sec. 7-1-6 Restrictions on Keeping of Dogs, Cats, Fowl and Other Animals;
Vicious Animals.**

- (a) **Restrictions.** It shall be unlawful for any person within the Village of Winneconne to own, harbor or keep any dog or cat which:
 - (1) Habitually pursues any vehicle upon any public street, alley or highway in the Village.
 - (2) Assaults or attacks any person or destroys property.
 - (3) Is at large within the limits of the Village.
 - (4) Habitually barks or howls to the annoyance of any person or persons. (See Section 7-1-

13.)

- (5) Kills, wounds or worries any domestic animal.
- (6) Is known by such person to be infected with rabies or to have been bitten by an animal known to have been infected with rabies.
- (7) In the case of a dog, is unlicensed.
- (8) Is tied or leashed in a manner that prohibits or impairs the reading of utility meters.

(b) Vicious Dogs and Animals — Definitions.

- (1) **A vicious dog or other animal** shall be defined as follows: Any dog or other animal shall be deemed and be presumed to be vicious if, at any time, it bites and inflicts a serious injury to any person or persons two (2) or more times during the dog's or animal's life under unprovoked circumstances and while off the dog's or animal owner's, keeper's or caretaker's premises or property. If the dog or other animal inflicts serious injury in a manner other than biting, said dog or other animal shall also be deemed and presumed to be vicious under this Section.
- (2) **A serious injury** shall be defined as any abrasions, bruising, cuts, broken bones, lacerations, internal injuries, torn or pulled ligaments or muscles, head injuries, or any other such similar condition.
- (3) **No Vicious dog or other animal** as defined herein shall be allowed to be owned, kept, harbored, maintained, or cared for within the Village of Winneconne corporate limits, by any person or legal entity.

(c) Penalty for Keeping Vicious Dogs or Animals in Violation of Subsection (b).

- (1) Any person convicted of violating Subsection (b) above shall pay a forfeiture as determined by the Village Board together with all costs and assessments. The municipal court can order the animal removed from the Village. Each day that a person owns, harbors, keeps, maintains or cares for any vicious dog or other animal in violation of this Section may be deemed a separate and distinct violation, subject to separate citations and convictions. Furthermore, any violation of Subsection (a) or (b) above shall result in a further penalty of having the subject animal or dog impounded by any law enforcement or animal control officer of the Village of Winneconne.
- (2) In the event that any vicious dog or animal has been impounded, said dog's or animal's owner shall be required to make arrangements to have said animal removed from the corporate limits of the Village of Winneconne within seven (7) days of impoundment. In the event any impounded animal has not had arrangements made to remove said animal from the corporate limits of the Village of Winneconne within said seven (7) day period, any law enforcement officer or animal control officer for the Village of Winneconne shall be authorized to destroy said animal.

(d) Potentially Dangerous Dog or Other Animal.

(1) Definitions.

Potentially dangerous dog or other animal means the following:

- a** Any dog or other animal, whether on or off the property of the owner, which, when unprovoked, on two (2) separate occasions within the immediate prior thirty-six (36) month period, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the dog are off the property of the owner or keeper of the dog.
- b** Any dog or other animal which, when unprovoked, bites a person, causing a less severe injury than is defined in Subsection (b)(2) above.

- c Any dog or other animal which, when unprovoked, on two (2) separate occasions within the immediate prior thirty-six (36) month period, has killed, seriously bitten, inflicted injury or otherwise caused injury to a domestic animal off the property of the owner or keeper of the dog.

(2) Restrictions and Rules Regarding Potentially Dangerous Dogs or Animals.

- a If a law enforcement officer for the Village of Winneconne has investigated and determined that there exists probable cause to believe that a dog or other animal is potentially dangerous, as is defined herein, the Chief of Police shall petition the Municipal Court to determine if the dog or other animal in question, should be declared potentially dangerous. Whenever possible, any complaint received from a member of the public which serves as part of the evidentiary basis for the animal control officer or law enforcement officer to find probable cause, shall be sworn to and verified by the complainant and shall be attached to the aforementioned petition. Notice of the hearing before the Municipal Judge shall be given to the owner, caretaker or keeper of the dog or animal in question no less than seven (7) days prior to said hearing, with said notice, together with a copy of the petition and all sworn complaints to be either served personally, or by certified mail with return receipt requested. All hearings under this Section shall be open to the public.
- b The hearing body, which shall be the Municipal Judge for the Village of Winneconne, may admit all relevant documents and testimony into evidence including incident reports and affidavits of witnesses, photographs, and personal testimony. The Municipal Judge for the Village of Winneconne shall be the exclusive trier of the issue of whether a dog or other animal is determined to be potentially dangerous. For the Municipal Judge of the Village of Winneconne to determine that a dog or other animal is potentially dangerous, there must be a preponderance of the evidence to establish the same.
- c Any owner, harborer, keeper, caretaker, or other interested party who is aggrieved by any decision of the Municipal Judge under this Section shall have the right to appeal the same by filing an action for certiorari with the Circuit Court no more than thirty (30) days from the date that said aggrieved person had received written notice of the Municipal Judge's decision on whether a dog or other animal is potentially dangerous.
- d After the hearing conducted pursuant to Section 7-1-6(d)(2)a. above, the owner, keeper, harborer or caretaker of the dog or other animal shall be notified in writing of the determination and orders issued, either personally or by certified first class mail return receipt requested. If a determination is made that a dog or other animal is potentially dangerous as herein provided, the owner, keeper, harborer or caretaker shall comply with Section 7-1-6(d)(2)h. and i. in accordance with the time schedule established by the chief law enforcement officer or animal control officer of the Village of Winneconne, but in no case more than thirty (30) days after the date of the determination, or thirty-five (35) days if the notice of the determination is mailed to the owner, keeper, harborer or caretaker of the dog or other animal.
- e No dog or other animal may be declared potentially dangerous if any injury or damage is sustained by a person who, at the time the injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner, keeper, harborer or caretaker of the dog or other animal, or was teasing, tormenting, abusing, or assaulting the dog or other animal, or was committing or attempting to

- commit a crime. No dog or other animal may be declared potentially dangerous if the dog or other animal was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack or assault. No dog or other animal may be declared potentially dangerous if an injury or damage was sustained by a domestic animal which, at the time of the injury, or damage was sustained, was teasing, tormenting, abusing or assaulting the dog or other animal.
- f** No dog or other animal may be declared potentially dangerous if the injury or damage to a domestic animal was sustained while the dog was working as a hunting dog, herding dog, or predator control dog on the property of or under the control of its owner, keeper, harborer or caretaker, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog.
 - g** No dog or other animal may be declared potentially dangerous if the injury or damage to another domestic animal was sustained while on the property or premises of the owner, harborer, keeper or caretaker of the dog or other animal, and the injured domestic dog or animal was upon the property not owned or maintained by the owner of the injured or damaged domestic animal.
 - h** All potentially dangerous dogs or other animals shall be properly licensed and vaccinated. The licensing authority for the Village of Winneconne shall include the potentially dangerous designation in the registration records of the dog after the Municipal Judge, after hearing, has determined the designation applies to the dog. The Village of Winneconne may charge a potentially dangerous dog fee in addition to the regular licensing fee as to provide for the increased cost of maintaining the records of the dog.
 - i** A potentially dangerous dog or other animal, while on the owner's property, shall at all times, be kept indoors or in a securely fenced yard from which the dog cannot escape and into which children cannot trespass. A potentially dangerous dog or other animal may be off the owner's premises only if it is restrained by a substantial leash, of appropriate length, and muzzled, and if it is under the control and supervision of a responsible adult while being restrained by said leash and muzzle.
 - j** If a potentially dangerous dog or other animal dies, or is sold, transferred or permanently removed from the Village of Winneconne where the owner, harborer, keeper or caretaker so resides, said person who owns, keeps, harbors, or caretakes a potentially dangerous dog or other animal shall notify the chief law enforcement officer for the Village of Winneconne or the animal control officer of the change in condition or new location of the potentially dangerous dog or other animal in writing within forty-eight (48) hours of said dog or other animal's removal.
- (e) Penalty for Violations of Subsection (d)(2).** Any person or entity convicted of violating Section 7-1-6(d)(2) shall pay a forfeiture as determined by Village Board, together with all costs and assessments. Each day that a person owns, harbors, keeps, maintains or cares for any potentially dangerous dog or other animal in violation of Section 7-1-6(d)(2), may be deemed separate and distinct violations, subject to separate citations and convictions. Furthermore, any violation of Section 7-1-6(d)(2) shall result in a further penalty of having the subject animal or dog impounded by any law enforcement or animal control officer of the Village of Winneconne, or any law enforcement or animal control officer of any jurisdiction authorized by the Village of Winneconne to enforce or effectuate the Village of Winneconne's ordinances, may impound any dog or other animal which is subject to Section

7-1-6(d)(2). In the event that any restricted or prohibited animal or other vicious or potentially vicious animal or dog has been impounded, said dog or animal's lawful owner shall be required to make arrangements to have said animal removed from the corporate Village of Winneconne limits within seven (7) days of impoundment. In the event any impounded animal has not had arrangements made to lawfully remove said animal from the corporate Village limits within said seven (7) day period, any law enforcement officer or animal control officer for the Village of Winneconne shall be authorized to destroy said animal.

(f) Unleashed Dogs or Other Animals Running at Large.

(1) No owner, keeper, harbinger or caretaker of any dog or other animal shall permit the same to be unleashed at any time said dog or other animal is not on the owner's, keeper's, harbinger's, or caretaker's property or premises and which is upon any public street, alley, right-of-way or any school ground, public park, cemetery or other public or private property without the permission of the owner or occupier of the property.

(2) A dog or other animal which is leashed or otherwise restrained by any device that is less than ten (10) feet in length, which is of sufficient strength to restrain and control said dog or other animal, and is held by a person competent to govern and control said animal, who has obtained the age of ten (10) years or more, and is able to prevent said dog or animal from annoying or worrying pedestrians or from trespassing on private or public property. Furthermore, a dog or other animal is not unleashed or uncontrolled and at large if it is properly restrained within a motor vehicle.

(3) Any person or entity who violates this Subsection (f) shall be subject to a fee consist ant with the total cost of impoundment under Section 7-1-7.

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

Sec. 7-1-7 Impoundment of Animals.

(a) Animal Control Agency.

(1) The Village of Winneconne may contract with or enter into an agreement with such person, persons, organization or corporation to provide for the operation of an animal shelter, impoundment of stray animals, confinement of certain animals, disposition of impounded animals and for assisting in the administration of rabies vaccination programs.

(2) The Village of Winneconne does hereby delegate to any such animal control agency the authority to act pursuant to the provisions of this Section.

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

(c) Claiming Animal; Disposal of Unclaimed Animals. After seizure of animals under this

Section by a law enforcement or animal control officer, the animal shall be impounded. The officer shall notify the owner, personally or through the U.S. mail, if such owner be known to the officer or can be ascertained with reasonable effort, but if such owner be unknown or unascertainable, the officer shall post written notice in three (3) public places in the Village, giving a description of the animal, stating where it is impounded and the conditions for its release, after the officer or warden has taken such animal into his possession. If after seven (7) days after such notice the owner does not claim such animal, the officer may dispose of the animal in a proper and humane manner; provided, if an animal before being impounded has bitten a person, the animal shall be retained in the Animal Shelter for ten (10) days for observation purposes. Within such times, the owner may reclaim the animal upon payment of impoundment fees, such fees to be established by resolution of the Village Board or impounding agency. No animal shall be released from the pound without being properly licensed if so required by state law or Village Ordinance.

- (d) **Sale of Impounded Animals.** If the owner doesn't reclaim the animal within seven (7) days, the animal control officer may sell the animal to any willing buyer.
- (e) **Village Not Liable for Impounding Animals.** The Village and/or its animal control agency shall not be liable for the death of any animal, which has been impounded or disposed of pursuant to this Section.

Sec. 7-1-8 Duty of Owner in Case of Animal Bite

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

Sec. 7-1-9 Chickens, Permits, Regulations

- (a) **Chickens Allowed.** Within the Village limits of Winneconne, female chickens (hens) are allowed in single family dwellings.
- (b) **Roosters Not Allowed.** Roosters are not allowed within the village limits of Winneconne.
- (c) **Maximum Number of Hens.** The maximum number of hens for any sized lot is (5) five.
- (d) **No Slaughtering.** There will be no slaughtering of chickens within the village limits of Winneconne.
- (e) **Bird Fighting.** Fighting of hens and other fowl is not allowed within the village of Winneconne as per Wisconsin Statute 951.08.
- (f) **Chicken Feed.** All food must be kept in airtight containers that are out of reach for wild animals.
- (g) **Chicken Coops.** Hens must be provided with a building structure that follows the following rules:
 - (1) Hens must be provided a minimum of three (3) square feet of floor space each.
 - (2) A coop must have minimum dimensions of two (2) feet long by two (2) feet wide

- by four (4) feet tall.
- (3) There must be at least one (1) nesting box per 1 hen.
 - (4) Coops must be insulated.
 - (5) Coops must have vents to insure proper ventilation.
 - (6) There must be a minimum of one (1) foot of window for each ten (10) feet of wall space.
 - (7) The outside of the coop must match the main dwelling (house) in style and color.
 - (8) Coops must be cleaned daily and the waste must be properly disposed of.
 - (9) During the winter months:
 - a. Windows must be covered with plastic to minimize drafts.
 - b. Heating lamps may need to be provided to keep the coop at the proper temperature of no less than 65 degrees Fahrenheit.
 - c. Water must not be frozen in the winter.
 - (10) Coops must provide access to the chicken run.
 - (11) Chickens shall not be allowed inside of a residence.
- (h) Chicken Runs.** The chickens must be provided with an outdoor fenced structure in which to run around.
- (1) Hens must be provided with at least six (6) square feet of space each in the run.
 - (2) The minimum dimensions are two (2) feet wide by two (3) feet long by three (3) feet tall.
 - (3) The fencing must have spacing of no more than one (1) inch on all sides.
 - (4) The top of the run must be covered with fencing with spacing of one (1) inch or less.
 - (5) The fencing should touch the ground if the run is mobile.
 - (6) The fencing should be buried a foot under the ground if the run is not mobile or secured to the ground.
 - (7) No chicken structure or fencing may be placed closer than 10' from any property line or closer than 20' from any neighboring dwelling.
 - (8) During the winter months (November – March):
 - a. The run must be surrounded by heavy plastic on all sides.
 - b. The top of the run must be covered in heavy plastic.
- (i) General Care Requirements.** Chickens must be properly cared for.
- (1) Food must be provided daily and must be proper for chickens in accordance with Wisconsin Statute 951.13.1.
 - (2) Clean water must be provided at all times and changed daily in accordance with Wisconsin Statute 951.13.2.
- (j) Licenses and Fees.** To obtain a Chicken License, the applicant must:
- (1) Obtain signatures from all adjoining property owners.
 - (2) Show the desired location for the coop either on a zoning map or with photos at Village Hall.
 - (3) Present the design for the desired coop at Village Hall.
 - (4) Pay a licensing fee as determined by Village Board annually covering the calendar year. If paid after February 28th, a late fee, as established by Village Board will be assessed.

(k) Penalties.

- (1) General Complaints. This includes noise complaints, nuisance complaints and any others.
 - a. First Offense – a warning will be given to the permit holder that if similar complaints continue, forfeiture will be assessed as well as the potential loss of a license.
 - b. Second Offense – Forfeiture as established by Village Board will be assessed on the part of the permit holder.
 - c. Third Offense – the license of the permit holder will be revoked for twelve (12) months and forfeiture as established by Village Board would be assessed.
- (2) Animal Cruelty Violations. These consist of but are not limited to inadequate food or water, dirty coop, improper temperature conditions for the birds, sick or unhealthy birds, and improper size coop.
 - a. First Offense – a warning will be given with the order to fix the problem within two (2) weeks.
 - b. Second Offense – the license of the permit holder will be revoked indefinitely and prosecution under Wisconsin State Law and a fine as determined by Village Board.

Sec. 7-1-10 Reserved for future use

Sec. 7-1-11 Animal Feces.

- (a) Removal of Fecal Matter.** The owner or person in charge of any dog, cat, horse, potbellied pig, or other animal shall not permit solid fecal matter of such animal to deposit on any street, alley or other public or private property, unless such matter is immediately removed therefrom by said owner or person in charge. This Section shall not apply to a person who is legally blind or physically handicapped.
- (b) Accumulation of Fecal Matter Prohibited on Private Yards.** The owner or person in charge of the dog, cat or other animal must also prevent accumulation of animal waste on his/her own property by regularly patrolling and properly disposing of the fecal matter.

Sec. 7-1-12 Injury to Property by Animals.

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

Sec. 7-1-13 Barking Dogs or Crying Cats.

It shall be unlawful for any person knowingly to keep or harbor any dog which habitually barks, howls or yelps, or any cat which habitually cries or howls to the great discomfort of the peace and quiet of the neighborhood or in such manner as to materially disturb or annoy persons in the

neighborhood who are of ordinary sensibilities. Such dogs and cats are hereby declared to be a public nuisance. The owner of a dog or cat is considered to be in violation of this Section when two (2) formal, written complaints are filed with Village law enforcement officers within a four (4) week period.

**Sec. 7-1-14 Prohibited and Protected Animals, Fowl, Reptiles and Insects;
Farm Animals.**

(a) Protected Animals.

(1) Possession and Sale of Protected Animals. It shall be unlawful for any person, firm or corporation to possess with intent to sell or offer for sale, or buy or attempt to buy, within the Village any of the following animals, alive or dead, or any part or product thereof: all wild cats of the family felidae, polar bear (*thalarctos maritimus*), red wolf (*canis niger*), vicuna (*vicugna vicugna*), gray or timber wolf (*canis lupus*), sea otter (*enhydra lutris*), Pacific Ridley turtle (*lepidochelys olivacea*), Atlantic green turtle (*chelonina mydas*), Mexican Ridley turtle (*lepidochelys kempii*).

(2) Compliance with Federal Regulations. It shall be unlawful for any person, firm or corporation to buy, sell or offer for sale a native or foreign species or subspecies of mammal, bird, amphibian or reptile, or the dead body or parts thereof, which appears on the endangered species list designated by the United States Secretary of the Interior and published in the Code of Federal Regulations pursuant to the Endangered Species Act of 1969 (Public Law 135, 9 1st Congress).

(3) Regulating the Importation of Certain Birds. No person, firm or corporation shall import or cause to be imported into this Village any part of the plumage, skin or dead body of any species of hawk, owl or eagle. This paragraph shall not be construed to forbid or restrict the importation or use of the plumage, skin, body or any part thereof legally collected for use by the American Indians for ceremonial purposes or in the preservation of their tribal customs and heritage.

(b) Exceptions. The provisions of Subsections (a) and (c) herein shall not be deemed to prevent the lawful importation, possession, purchase or sale of any species by any public agency, institute of higher learning, persons holding federal permits, or by a person holding a Scientific Collectors Permit issued by the Secretary of the Department of Natural Resources of the state, or to any person or organization licensed to present a circus. However, such facilities shall comply with Village zoning requirements.

(c) Snakes.

(1) For purposes of this Subsection, "poisonous" shall mean having the ability to cause serious harm or death by the transfer of venom or poison to a person or animal.

(2) No person shall keep or possess any snake in the Village which is poisonous or in excess of ten (10) feet in length. This prohibition shall not apply to bona fide zoos, educational institutions or exhibitions keeping such snakes for display or for instructional or research purposes. Any person legally possessing any such animal in this capacity shall notify the Chief of Police in writing of the location and type of snake being kept and the purpose for such possession.

(d) Exceptions; Animal Trials; Wildlife Rehabilitators. The prohibitions of Subsection (c) above shall not apply where the creatures are in the care, custody or control of: a veterinarian for treatment; agricultural fairs; shows or projects of the 4-H Clubs; a display for judging

purposes; an itinerant or transient carnival, circus or other show; dog or cat shows or trials; public or private educational institutions; licensed pet shops; zoological gardens; if:

(1) Their location conforms to the provisions of the zoning ordinance of the Village.

(2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.

(3) Animals are maintained in quarters so constructed as to prevent their escape.

(4) No person lives or resides within seventy-five (75) feet of the quarters in which the animals are kept.

(5) The prohibitions in this Section shall not apply to animals in the possession of a wildlife rehabilitator who is licensed by the State of Wisconsin, Department of Natural Resources, while such animal is being lawfully nurtured or rehabilitated for release in the wild. No animal may be kept under this exception for a period of more than fifty-five (55) days.

No animal may be kept under this exception that poses a danger to the community.

- (e) **Farm Animals; Miniature Pigs.** Except as provided in Section 7-1-23 regarding miniature pigs and on properties zoned in an agricultural classification, no person shall own, keep, harbor or board any cattle, horses, ponies, swine, goats, sheep, pigeons, fowl [more than two (5)] or rabbits [more than four (4)]. For purposes of this Subsection, the term "swine" shall not include any miniature pigs of either sex weighing less than eighty (80) pounds which are intended for and kept as domestic pets.

Sec. 7-1-15 Sale of Rabbits, Chicks or Artificially Colored Animals.

- (a) No person may sell, offer for sale, raffle, give as a prize or premium, use as an advertising device or display living chicks, ducklings, other fowl or rabbits that have been dyed or otherwise colored artificially.

(1) No person may sell, offer for sale, barter or give away living chicks, ducklings or other fowl without providing proper boarder facilities for the care of such chicks, ducklings or other fowl during the time they are in such person's care, custody or control.

(2) No-retailer, as defined in Sec. 100.30(2)(g), Wis. Stats., may sell, offer for sale, barter or give away living baby rabbits, baby chicks, ducklings or other fowl under two (2) months of age, in any quantity less than six (6), unless the purpose of selling these animals is for agricultural, wildlife or scientific purposes.

State Law Reference: Sec. 951.11, Wis. Stats.

Sec. 7-1-16 Providing Proper Care, Food and Drink to Animals.

- (a) **Care of Dogs and Domesticated Animals.** All dogs and domesticated animals shall be cared for, maintained and handled in a humane and sanitary manner and in such a way as to prevent noises, barking, fighting or howling or other disturbance of the peace and quiet of the neighborhood. No domestic animal shall be abandoned or turned loose by its owner or keeper. No animal shall be inhumanely confined in a manner which causes or is likely to cause pain, suffering, injury or death.

(h) **Food and Water.**

(1) No person owning or responsible for confining or impounding any animal may refuse or neglect to supply the animal with a sufficient supply of food and water as determined in this Section.

- (2) The food shall be sufficient to maintain all animals in good health.
- (3) If potable water is not accessible to the animals at all times, it shall be provided daily and in sufficient quantity for the health of the animal.

State Law Reference: Sec. 951.13, Wis. Stats.

Sec. 7-1-17 Providing Proper Shelter.

- (a) **Proper Shelter.** No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter as determined in this Section. In the case of farm animals, nothing in this Section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices in the particular county where the animal or shelter is located.
- (b) **Indoor Standards.** Minimum indoor standards of shelter shall include:
 - (1) **Ambient temperatures.** The ambient temperature shall be compatible with the health of the animal.
 - (2) **Ventilation.** Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.
- (c) **Outdoor Standards.** Minimum outdoor standards of shelter shall include:
 - (1) **Shelter from sunlight.** When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, "caged" does not include farm fencing used to confine farm animals.
 - (2) **Shelter from inclement weather.**
 - a **Animals generally.** Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.
 - b **Dogs.** If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size to accommodate the dog shall be provided.
- (d) **Space Standards.** Minimum space requirements for both indoor and outdoor enclosures shall include:
 - (1) **Structural strength.** The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.
 - (2) **Space requirements.** Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.
- (e) **Sanitation Standards.** Minimum standards of sanitation for both indoor and outdoor enclosures shall include periodic cleaning to remove excreta and other waste materials, dirt and trash so as to minimize health hazards.

State Law Reference: Sec. 951.14, Wis. Stats.

Sec. 7-1-18 Neglected or Abandoned Animals.

- (a) **Neglected or Abandoned Animals.**
 - (1) No person may abandon any animal.
 - (2) Any law enforcement or animal control officer may remove, shelter and care for an

animal found to be cruelly exposed to the weather, starved or denied adequate water, neglected, abandoned or otherwise treated in a cruel manner and may deliver such animal to another person to be sheltered, cared for and given medical attention, if necessary. In all cases the owner, if known, shall be immediately notified and such officer, or other person, having possession of the animal shall have a lien thereon for its care, keeping and medical attention and the expense of notice.

- (3) If the owner or custodian is unknown and cannot, with reasonable effort, be ascertained or does not, within five (5) days after notice, redeem the animal by paying the expenses incurred, it may be treated as a stray and dealt with as such.
- (4) Whenever, in the opinion of any such officer, an animal is hopelessly injured or diseased so as to be beyond the probability of recover, it shall be lawful for such officer to kill such animal and the owner thereof shall not recover damages for the killing of such animal unless he shall prove that such killing was unwarranted.
- (5) Section 951.16, Investigation of Cruelty Complaints, and Sec. 951.17, Wis. Stats., Expenses of Investigation, are hereby adopted by reference and made a part of this Chapter.

(b) Injured Animals. No person who owns, harbors or keeps any animal shall fail to provide proper medical attention to such animal when and if such animal becomes sick or injured. In the event the owner of such animal cannot be located, the Village or any animal control agency with whom the Village has an agreement or contract shall have the authority to take custody of such animal for the purpose of providing medical treatment, and the owner thereof shall reimburse the person or organization for the costs of such treatment.

State Law Reference: Secs. 951.15, 951.16 and 951.17, Wis. Stats.

Sec. 7-1-19 Cruelty to Animals and Birds Prohibited.

- (a) Acts of Cruelty Prohibited.** No person except a law enforcement or animal control officer in the pursuit of his/her duties shall, within the Village, shoot or kill or commit an act of cruelty to any animal or bird or disturb any bird nests or bird eggs.
- (b) Leading Animal From Motor Vehicle.** No person shall lead any animal upon a Village street from a motor vehicle or from a trailer or semi-trailer drawn by a motor vehicle.
- (c) Use of Poisonous and Controlled Substances.** No person may expose any pet animal owned by another to any known poisonous substance or controlled substance listed in Sec. 961.14, Wis. Stats., whether mixed with meat or other food or not, where it is reasonable to anticipate the substance may be eaten by such animal or for the purpose of harming the animal. This Subsection shall not apply to poison used on one's own premises and designed for the purpose of rodent and pest extermination, nor the use of a controlled substance used in accepted veterinarian practice or in research by persons or organizations regularly engaged in such research.
- (d) Use of Certain Devices Prohibited.** No person may directly or indirectly, or by aiding, abetting or permitting the doing thereof either put, place, fasten, use or fix upon or to any animal used or readied for use for a work purpose or for use in an exhibition, competition, rodeo, circus or other performance any of the following devices: a bristle bur, tack bur or like device; or a poling device used to train a horse to jump which is charged with electricity or to which have been affixed nails, tacks or other sharp points.
- (e) Shooting at Caged or Staked Animals.** No person may instigate, promote, aid or abet as a

principal, agent, employee, participant or spectator, or participate in the earnings from or intentionally maintain or allow any place to be used for the shooting, Killing, or wounding with a firearm or any deadly weapon any animal that is tied, staked out, caged or otherwise intentionally confined in a man-made enclosure, regardless of size.

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

(a) **Purpose.** The keeping of a large number of dogs and cats within the Village of Winneconne for a considerable period of time detracts from and, in many instances, is detrimental to, healthful and comfortable life in such areas. The keeping of a large number of dogs and cats is, therefore, declared a public nuisance.

(b) **Number Limited.**

No person or family shall own, harbor or keep in its possession more than a total of three (3) dogs and three (3) cats in any residential unit except that a litter of pups or kittens or a portion of a litter may be kept for not more than ten (10) weeks from birth.

Sec. 7-1-21 Trapping of Animals.

(a) In the interest of public health and safety, it shall be unlawful for any person, in or on Village-owned land within the Village of Winneconne to set, place or tend any trap for the purpose of trapping, killing, catching, wounding, worrying or molesting any animal, except as provided within Village Ord., 12-1-1(b)(6).

(b) All such traps set, placed or tended shall comply with Chapter 29 of the Wisconsin Statutes as they relate to trapping.

(c) Nothing in this Section shall prohibit or hinder the Village of Winneconne or its employees or agents from performing their official duties.

Sec. 7-1-22 Keeping of Bees.

It shall be unlawful for any person to establish or maintain any hive, stand or box where bees are kept or keep any bees in or upon any premises within the corporate limits of the Village unless the bees are kept in accordance with the following provisions:

(a) No hive, stand or box where bees are kept shall be located closer than twenty (20) feet to any property boundary. Such hives stands or boxes may only be located in the rear yard.

(b) If bee colonies are kept within fifty (50) feet of any exterior boundary of the property on which the hive, stand or box is located, a barrier that will prevent bees from flying through it, no less than five (5) feet high, shall be installed and maintained along said exterior boundary. Said barrier may be either a natural planting or artificial.

(c) Fresh, clean watering facilities for bees shall be provided on the said premises.

(d) The bees and equipment shall be kept in accordance with the provisions of state law.

(e) A conditional use permit shall first be obtained pursuant to the Village Zoning Code.

Sec. 7-1-23 (reserved for future use)

Sec. 7-1-24 Feeding of Deer and Geese.

It shall be unlawful for anyone to place any type of feeder, above or on the ground, for the purpose of offering any feed such as salt, minerals, apples, corn, sunflower seeds, deer suckers, or any other type of feed for the purpose of enticing deer or wild geese into any specific area of anyone's property in the Village of Winneconne.

Sec. 7-1-25 Penalties.

- (a) Any person violating Sections 7-1-16, 7-1-17, 7-1-18, 7-1-19, 7-1-20, 7-1-21, 7-1-22, 7-1-23 or 7-1-24 shall be subject to a forfeiture of not less than Fifty Dollars (\$50.00) and not more than Two Hundred Dollars (\$200.00). This Section shall also permit the Village Attorney to apply to the court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating any aspect of this Chapter.
- (1) Anyone who violates Sections 7-1-2, 7-1-3, 7-1-4 and 7-1-5 of this Code of Ordinances or Chapter 174, Wis. Stats., shall be subject to a forfeiture of not less than Twenty-five Dollars (\$25.00) and not more than Two Hundred Dollars (\$200.00) for the first offense and not less than One Hundred Dollars (\$100.00) and not more than Four Hundred Dollars (\$400.00) for any subsequent offenses.
- (2) An owner who refuses to comply with an order issued under Section 7-1-5 to deliver an animal to an officer, isolation facility or veterinarian or who does not comply with the conditions of an order that an animal be quarantined shall be fined not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) or imprisoned not more than sixty (60) days or both.
- (b) Each day that a violation of this Chapter continues shall be deemed a separate violation. Any dog found to be the subject of a violation of this Section shall be subject to immediate seizure, impoundment and removal from the Village by Village officials in the event the owner or keeper of the dog fails to remove the dog from the Village. In addition to the foregoing penalties, any person who violates 7-1-6 through 7-1-24 of this Code of Ordinances shall pay all expenses including shelter, food, handling and veterinary care necessitated by the enforcement of this Chapter.

Title 7 4 Chapter 2

Fermented Malt Beverages and Intoxicating Liquor

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Article A: Fermented Malt Beverages and Intoxicating Liquor

Sec. 7-2-1 State Statutes Adopted.

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

State Law Reference: Chapter 125, Wis. Stats.

Sec. 7-2-2 Definitions.

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

Sec. 7-2-3 License Required.

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

Sec. 7-2-4 Classes of Licenses.

- (a) **Retail "Class A" Intoxicating Liquor License.** A retail "Class A" intoxicating liquor license, when issued by the Village Clerk-Treasurer under the authority of the Village Board, shall permit its holder to sell, deal and traffic in intoxicating liquors only in original packages or containers and to be consumed off the premises so licensed.
- (b) **Retail "Class B" Intoxicating Liquor License.** A retail "Class B" intoxicating liquor license, when issued by the Village Clerk-Treasurer under authority of the Village Board, shall permit its holder to sell, deal and traffic in intoxicating liquors to be consumed by the glass only on the premises so licensed and in the original package or container in multiples not to exceed four (4) liters at any one (1) time, to be consumed off the premises, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off the premises.
- (c) **Reserve "Class B" Licenses.** A Reserve "Class B" license means a license that is not granted or issued by the Village on December 1, 1997, and that is counted under Sec.

125.51(4)(br), Wis. Stats., which, if granted or issued, authorizes the sale of intoxicating liquor to be consumed by the glass only on the premises where sold, and also authorizes the sale of intoxicating liquor in the original package or container in multiples not to exceed four (4) liters at any one time. to be consumed off premises, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off the premises.

(d) Class "A" Fermented Malt Beverage Retailer's License. A Class "A" retailer's fermented malt beverage license, when issued by the Village Clerk-Treasurer under the authority of the Village Board, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only for consumption away from the premises where sold and in the original packages, containers or bottles. Such license may be issued after July 1st. The license shall expire on the following June 30th.

(e) Class "B" Fermented Malt Beverage Retailer's License.

(1) License. A Class "B" fermented malt beverage retailer's license, when issued by the Village Clerk-Treasurer under the authority of the Village Board, shall entitle the holder thereof to possess, sell or offer for sale, fermented malt beverages, either to be consumed upon the premises where sold or away from such premises. The holder may also sell beverages containing less than one-half (1/2) of a percent of alcohol by volume, without obtaining a special license to sell such beverages. Such license may be issued after July 1st. The license shall expire on the following June 30th.

(2) Application. Class "B" licenses may be issued to any person qualified under Sec. 125.04(5), Wis. Stats. Such licenses may not be issued to any person acting as agent for or in the employ of another except that this restriction does not apply to a hotel or restaurant which is not a part of or located on the premises of any mercantile establishment, or to a bona fide club, society or lodge that has been in existence for at least six (6) months before the date of application. A Class "B" license for a hotel, restaurant, club, society or lodge may be issued in the name of an officer who shall be personally responsible for compliance with this Chapter. Except as provided in Sec. 125.31, Wis. Stats., Class "B" licenses may not be issued to brewers or fermented malt beverages wholesalers.

(f) Temporary Class "B" Fermented Malt Beverage License.

(1) License. As provided in Sec. 125.26(1) and (6), Wis. Stats., temporary Class "B" fermented malt beverage licenses may be issued to bona fide clubs, to county or local fair, associations or agricultural societies. to churches, lodges or societies that have been in existence for at least six (6) months before the date of application and to posts of veterans' organizations authorizing the sale of fermented malt beverages at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. A license issued to a count or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of fermented malt beverages from leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of fermented malt beverages from the stands while the fair is being held. Such license is valid for dates as approved by the Village Board.

(2) Application. Application for such license shall be signed by the president or corresponding officer of the society or association making such application and shall be filed with the Village Clerk-Treasurer together with the appropriate

license fee for each day for which the license is sought. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a forfeiture of Two Hundred Dollars (\$200.00) and will be ineligible to apply for a temporary Class "B" license for one (1) year. The license shall specify the hours and dates of license validity. The application shall be filed a minimum of fifteen (15) days prior to the meeting of the Village Board at which the application will be considered for events of more than three (3) consecutive days. If the application is for a license to be used in a Village park, the applicant shall specify the main point of sale facility.

(g) Temporary "Class B" Wine License.

(1) License. Notwithstanding Sec. 125.68(3), Wis. Stats., temporary "Class B" licenses may be issued to bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six (6) months before the date of application and to posts of veterans' organizations authorizing the sale of wine in an original package, container or bottle or by the glass if the wine is dispensed directly from an original package, container or bottle at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. No fee may be charged to a person who, at the same time, applies for a temporary Class "B" beer license under Sec. 125.26(6), Wis. Stats., or the same event. A license issued to a county or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of wine from leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of wine from the stands while the fair is being held. Not more than two (2) such licenses may be issued under this Subsection to any club, county or local fair association, agricultural association, church, lodge, society or veteran's post in any twelve (12) month period.

(2) Application. Application for such license shall be signed by the president or corresponding officer of the society or association making such application and shall be filed with the Village Clerk-Treasurer together with the appropriate license fee for each day for which the license is sought. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a forfeiture as determined by Village Board and will be ineligible to apply for a temporary "Class B" wine license for one (1) year. The license shall specify the hours and dates of license validity. The application shall be filed a minimum of fifteen (15) days prior to the meeting of the Village Board at which the application will be considered for events of more than three (3) consecutive days. If the application is for a license to be used in a Village park, the applicant shall specify the main point of sale facility.

(h) Wholesaler's License. A wholesaler's fermented malt beverage license, when issued by the Village Clerk-Treasurer under authority of the Village Board, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only in original packages or containers to dealers, not to be consumed in or about the premises of said wholesaler.

(i) Retail "Class C" Licenses.

(1) In this Subsection "barroom" means a room that is primarily used for the sale or consumption of alcohol beverages.

- (2) A "Class C" license authorizes the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold.
- (3) A "Class C" license may be issued to a person qualified under Sec. 125.04(5), Wis. Stats., for a restaurant in which the sale of alcohol beverages accounts for less than fifty percent (50%) of gross receipts and which does not have a barroom if the municipality's quota prohibits the municipality from issuing a "Class B" license to that person. A "Class C" license may not be issued to a foreign corporation or a person acting as agent for or in the employ of another.
- (4) A "Class C" license shall particularly describe the premises for which it is issued.

Cross Reference: Section 7-2-17.

Sec. 7-2-5 License Fees.

There shall be the following classes of licenses which, when issued by the Village Clerk-Treasurer under the authority of the Village Board after payment of the license fee and publication costs hereinafter specified shall permit the holder to sell, deal or traffic in intoxicating liquors or fermented malt beverages as provided in Section 7-2-4 of this Code of Ordinances and Chapter 125, Wis. Stats.:

- (a) **Class "A" Fermented Malt Beverages Retailer's License.** The annual fee for this license shall be determined by the Village Board. The fee for a license for less than twelve (12) months shall be prorated according to the number of months or fraction thereof for which the license is issued.
- (b) **Class "B" Fermented Malt Beverage License.** The annual fee for this license shall be as determined by the Village Board. This license may be issued at any time for six (6) months in any calendar year, for which fifty percent (50%) of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued. The fee for a license for less than twelve (12) months shall be prorated according to the number of months or fraction thereof for which the license is issued.
- (c) **Temporary Class "B" Fermented Malt Beverage License.** The fee for this license shall be as determined by the Village Board.
- (d) **Temporary "Class B" Wine License.** The fee for this license shall be as determined by Village Board per event. However, there shall be no fee if the Temporary Wine License is obtained along with a Temporary Fermented Malt Beverage License.
- (e) **Fermented Malt Beverage Wholesalers' License.** The annual fee for this license shall be as determined by Village Board.
- (f) **"Class A" Intoxicating Liquor Retailer's License.** The annual fee for this license shall be as determined by Village Board.
- (g) **"Class B" Intoxicating Liquor Retailer's License.** The annual fee for this license shall be as determined by Village Board. This license may be issued at any time for six (6) months in any calendar year, for which fifty percent (50%) of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued.
- (h) **Reserve "Class B" Intoxicating Liquor License.** The fee for an initial issuance of a Reserve "Class B" license shall be as determined by Village Board, except that the fee for the initial issuance of a Reserve "Class B" license to a bona fide club or lodge

situated and incorporated in the state for at least six (6) years is the fee established in Section 7-2-5(g) for such a club or lodge. The annual fee for renewal of a Reserve "Class B" license is the fee established by Village Board.

- (i) **"Class B" License for Full-Service Restaurants and Hotels.** The initial annual fee for a "Class B" license for a full-service restaurant that has a seating capacity of three hundred (300) or more persons, or a hotel that has one hundred (100) or more rooms of sleeping accommodations and that has either an attached restaurant with a seating capacity of one hundred fifty (150) or more persons or a banquet room which will accommodate four hundred (400) or more persons, is as determined by Village Board. Thereafter, the annual renewal fee is as determined by Village Board.
- (j) **"Class C" Wine License.** The annual fee for this license shall be as determined by Village Board. The fee for less than twelve (12) months shall be prorated.

Sec. 7-2-6 Application for License.

- (a) **Contents.** Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on the form determined by the Wisconsin Department of Revenue and shall be sworn to by the applicant as provided by Secs. 887.01 to 887.04, Wis. Stats., and shall be filed with the Village Clerk-Treasurer not less than fifteen (15) days prior to the granting of such license. The premises shall be physically described to include every room and storage space to be covered by the license, including all rooms not separated by a solid wall or joined by connecting entrances.
- (b) **Corporations.** Such application shall be filed and sworn to by the applicant if an individual, by the president and secretary, of a corporation.
- (c) **Publication.** The Village Clerk-Treasurer shall publish each application for a Class "A", Class "B", "Class A", "Class B", or "Class C" license. There is no publication requirement for temporary Class "B" picnic beer licenses under Sec. 125.26. Wis. Stats., or temporary "Class B" picnic wine licenses under Sec. 125.51(10), Wis. Stats. The application shall be published once in the official Village newspaper, and the costs of publication shall be paid by the applicant at the time the application is filed, as determined under Sec. 985.08, Wis. Stats.
- (d) **Amending Application.** Whenever anything occurs to change any fact set out in the application of any Licensee, such Licensee shall file with the issuing authority a notice in writing of such change within ten (10) days after the occurrence thereof.
- (e) **Quota.** License quotas shall be as established in Ch. 125, Wis. Stats.

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

- (a) **Residence Requirements.** A retail Class "A" or Class "B" fermented malt beverage or "Class A" or "Class B" intoxicating liquor license shall be granted only to persons who are citizens of the United States and who have been residents of the State of Wisconsin continuously for at least ninety (90) days prior to the date of the application.
- (b) **Applicant to have Malt Beverage License.** No retail "Class B" intoxicating liquor license shall be issued to any person who does not have or to whom is not issued a Class "B" retailer's license to sell fermented malt beverages.

- (c) **Right to Premises.** No applicant will be considered unless he/she has the right to possession of the premises described in the application for the license period, by lease or by deed.
- (d) **Age of Applicant.** Licenses related to alcohol beverages shall only be granted to persons who have attained the legal drinking age.
- (e) **Corporate Restrictions.**
- (1) No license or permit may be issued to any corporation unless the corporation meets the qualifications under Sec. 125.04(a)1 and 4 and (b), Wis. Stats., unless the agent of the corporation appointed under Sec. 125.04(6) and the officers and directors of the corporation meet the qualifications of Sec. 125.04(a)1 and 3 and (b) and unless the agent of the corporation appointed under Sec. 125.04(6) meets the qualification under Sec. 125.04(a)2. The requirement that the corporation meet the qualifications under Sec. 125.04(a)1 and (b) does not apply if the corporation has terminated its relationship with all of the individuals whose actions directly contributed to the conviction.
 - (2) Each corporate applicant shall file with its application for such license a statement by its officers showing the names and addresses of the persons who are stockholders together with the amount of stock held by such person or persons. It shall be the duty of each corporate applicant and Licensee to file with the Village Clerk-Treasurer a statement of transfers of stock within forty-eight (48) hours after such transfer of stock.
 - (3) Any license issued to a corporation may be revoked in the manner and under the procedure established in Sec. 125.12, Wis. Stats., when more than fifty percent (50%) of the stock interest, legal or beneficial, in such corporation is held by any person or persons not eligible for a license under this Chapter or under the state law.
- (f) **Sales Tax Qualification.** All applicants for retail licenses shall provide proof, as required by Sec. 77.61(11), Wis. Stats., that they are in good standing for sales tax purposes (i.e., hold a seller's permit) before they may be issued a license.
- (g) **Connecting Premises.** Except in the case of hotels, no person may hold both a "Class A" license and either a "Class B" license or permit, a Class "B" license or permit, or a "Class C" license for the same premises or for connecting premises. Except for hotels, if either type of license or permit is issued for the same or connecting premises already covered by the other type of license or permit, the license or permit last issued is void. If both licenses and permits are issued simultaneously, both are void.
- (h) **Limitations on Other Business; Class "B" Premises.** No Class "B" license or permit may be granted for any premises where any other business is conducted in connection with the premises, except that this restriction does not apply if the premises for which the Class "B" license or permit is issued is connected to premises where other business is conducted by a secondary doorway that serves as a safety exit and is not the primary entrance to the Class "B" premises. No other business may be conducted on premises operating under a Class "B" license or permit. These restrictions do not apply to any of the following:
- (1) A hotel.
 - (2) A restaurant, whether or not it is a part of or located in any mercantile establishment.
 - (3) A combination grocery store and tavern.
 - (4) A combination sporting goods store and tavern in towns, villages and 4th class

cities.

- (5) A combination novelty store and tavern.
- (6) A bowling alley or recreation premises.
- (7) A club, society or lodge that has been in existence for six (6) months or more prior to the date of filing application for the Class "B" license or permit.

Sec. 7-2-8 Investigation.

The Village Clerk-Treasurer shall notify Village law enforcement officers, the Fire Inspector and Building Inspector (and, as appropriate, other pertinent law enforcement agencies) of each new application, and these officials shall inspect or cause to be inspected each application and the premises, together with such other investigation as shall be necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto, including those governing sanitation in restaurants, and whether the applicant is a proper recipient of a license. These officials shall furnish to the Village Clerk- Treasurer in writing, who shall forward to the Village Board, the information derived from such investigation, accompanied by a recommendation as to whether a license should be granted or refused. No license shall be renewed without a re-inspection of the premises and report as originally required.

Sec. 7-2-9 Approval of Application.

- (a) No license shall be issued for operation on any premises or with any equipment for which taxes, assessments, forfeitures or other financial claims of the Village are delinquent and unpaid.
- (b) No license shall be issued unless the premises conform to the sanitary, safety and health requirements of the State Building Code, and the regulations of the State Board of Health and local Board of Health applicable to restaurants. The premises must be properly lighted and ventilated, must be equipped with separate sanitary toilet and lavatory facilities equipped with running water for each sex and must conform to all Ordinances of the Village.
- (c) Consideration for the granting or denial of a license will be based on:
 - (1) Arrest and conviction record of the applicant, subject to the limitations imposed by Secs. 111.321, 111.322, and 111.335, Wis. Stats.;
 - (2) The financial responsibility of the applicant;
 - (3) The appropriateness of the location and the premises where the licensed business is to be conducted; and
 - (4) Generally, the applicant's fitness for the trust to be reposed.
- (d) An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two (2) offenses which are substantially related to the licensed activity within the five (5) years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the Village Board. The Village Board reserves the right to consider the severity, and facts and

circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the Board, at its discretion may, based upon an arrest or conviction record of two (2) or more offenses which are substantially related to the licensed activity within the five (5) years immediately preceding, act to suspend such license for a period of one (1) year or more.

Sec. 7-2-10 Granting of License.

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

Sec. 7-2-11 Transfer and Lapse of License.

- (a) In accordance with the provisions of Sec. 125.04(12), Wis. Stats., a license shall be transferable from one premise to another if such transfer is first approved by the Village Board. An application for transfer shall be made on a form furnished by the Village Clerk-Treasurer. Proceedings for such transfer shall be had in the same form and manner as the original application. The fee for such transfer is determined by Village Board. Whenever a license is transferred, the Village Clerk-Treasurer shall forthwith notify the Wisconsin Department of Revenue of such transfer. In the event of the sale of a business or business premises of the Licensee, the purchaser of such business or business premises must apply to the Village for reissuance of said license and the Village, as the licensing authority, shall in no way be bound to reissue said license to said subsequent purchaser.
- (b) Whenever the agent of a corporate holder of a license is for any reason replaced, the Licensee shall give the Village Clerk-Treasurer written notice of said replacement, the reasons therefor and the new appointment. Until the next regular meeting or special meeting of the Village Board, the successor agent shall have the authority to perform the functions and be charged with the duties of the original agent. However, said license shall cease to be in effect upon receipt by the Village Clerk-Treasurer of notice of disapproval of the successor agent by the Wisconsin Department of Revenue or other law enforcement officers of the municipality in which the license was issued. The corporation's license shall not be in force after receipt of such notice or after a regular or special meeting of the Village Board until the successor agent or another qualified agent is appointed and approved by the Village.

Sec. 7-2-12 Numbering of License.

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

Sec. 7-2-13 Posting Licenses; Defacement.

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

Sec. 7-2-14 Conditions of License.

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

- (a) **Consent to Entry.** Every applicant procuring a license thereby consents to the entry of law enforcement authorities or duly authorized representatives of the Village at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all things and articles there had in violation of Village Ordinances or state laws, and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.
- (b) **Employment of Minors.** No retail "Class B" or Class "B" licenses shall employ any underage person, as defined in the Wisconsin Statutes, but this shall not apply to hotels and restaurants. Family members may work on the licensed premises but are not permitted to sell or dispense alcoholic beverages.
- (c) **Disorderly Conduct Prohibited.** Each licensed premises shall, at all times, be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.
- (d) **Licensed Operator on Premises.** There shall be upon premises, and in visual control of such premises, operated under a "Class B", Class "B", or "Class C" license, at all times, the Licensee, members of the Licensee's immediate family who have attained the legal drinking age, and/or some person who shall have an operator's license and who shall be responsible for the acts of all persons serving as waiters, or in any other manner, any fermented malt beverages to customers. No person other than the Licensee shall serve fermented malt beverages in any place operated under a "Class B", Class "B", or "Class C" license unless he/she possesses an operator's license, or there is a person with an operator's license upon said premises at the time of such service.
- (e) **Health and Sanitation Regulations.** The rules and regulations of the State Board of

Health governing sanitation in restaurants shall apply to all "Class B" liquor or "Class C" licenses issued under this Chapter. No "Class B" or "Class C" license shall be issued unless the premises to be licensed conform to such rules and regulations.

- (f) **Restrictions Near Schools and Churches.** No retail Class "A", Class "B", "Class A" or "Class B" license shall be issued for premises, the main entrance of which is less than three hundred (300) feet from the main entrance of any established public school, parochial school, hospital or church. Such distance shall be measured by the shortest route along the highway from the closest point of the maintenance entrance of such school, church or hospital to the main entrance to such premises. This Subsection shall not apply to premises licensed as such on June 30, 1947, nor shall it apply to any premises licensed as such prior to the occupation of real property within three hundred (300) feet thereof by any school building, hospital building or church building.
- (g) **Clubs.** No club shall sell or give away any intoxicating liquors except to bona fide members and guests invited by members.
- (h) **Gambling Prohibited.** Except as authorized by state law, no gambling or game of chance of any sort shall be permitted in any form upon any premises licensed under this Chapter or the laws of the State of Wisconsin.
- (i) **Credit Prohibited.** No retail Class "A", Class "B", "Class A", "Class B", or "Class C" liquor, wine, or fermented malt beverage Licensee shall sell or offer for sale any alcohol beverage to any person or persons by extending credit, except hotel credit extended to a resident guest or a club to a bona fide member. It shall be unlawful for such Licensee or permittee to sell alcohol beverages to any person on a passbook or store order or to receive from any person any goods, ware, merchandise or other articles in exchange for alcohol beverages.
- (j) **Licensee or Permittee Responsible for Acts of Help.** A violation of this Chapter by a duly authorized agent or employee of a Licensee or permittee under this Chapter shall constitute a violation by the Licensee or permittee. Whenever am; Licensee or permittee under this Chapter shall violate any portion of this Chapter, proceeding for the suspension or revocation of the license or permit of the holder thereof may be instituted in the manner determined in this Chapter.

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

Sec. 7-2-15 Closing Hours.

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

(a) Class "B" Licenses.

- (1) No premises for which a retail "Class B" liquor, Class "B" fermented malt beverage or "Class C" wine license has been issued shall be permitted to remain open for the sale of liquor or fermented malt beverages or for any other purpose between the hours of 2:00 a.m. and 6:00 a.m., Monday through Friday, and 2:30 a.m. and 6:00 a.m. Saturday and Sunday. There shall be no closing hours on January 1st.
- (2) Hotels and restaurants, the principal business of which is the furnishing of food or

lodging to patrons, bowling alleys, indoor horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business but shall not sell liquor or malt beverages during the closing hours of Subsection (a)(1) above.

- (b) Carryout Hours.** Between 9:00 p.m. and 8:00 a.m., no person may sell, remove, carry out or permit to be removed or carried out from any premises having, a "Class A" or Class "A" license, fermented malt beverages or intoxicating liquor in original unopened packages, containers or bottles or for consumption away from the premises. On "Class B" liquor or Class "B" fermented malt beverage licensed premises, carryout shall be prohibited between midnight and 6:00 a.m.

Sec. 7-2-16 Restrictions on Temporary Fermented Malt Beverage or Wine Licenses.

It shall be unlawful for any person or organization on a temporary basis to sell or offer to sell any alcohol beverage upon .any Village-owned property or privately-owned property within the Village of Winneconne, except through the issuance of a Temporary Class "B" Fermented Malt Beverage License or Temporary "Class B" Wine License issued by the Village Board in accordance with Wisconsin Statutes and as set forth in this Section. A Temporary Class "B" Fermented Malt Beverage License or Temporary "Class B" Wine License authorizing the sale and consumption of beer and/or wine on Village-owned property or privately-owned property may be authorized by the Village Board provided the following requirements are met:

- (a) Compliance with Eligibility Standards.** The organization shall meet the eligibility requirements of a bona fide club, association, lodge or society as set forth in Sec. 125.26(6), Wis. Stats., and shall fully comply with the requirements of this Section and Section 11-4-1. Members of an organization which is issued a temporary license and who are issued operator's licenses for the event may be required to attend a pre-event informational meeting to learn what rules and regulations apply and what the responsibilities of the bartenders and organization will be.
- (b) Posting of Signs and Licenses.** All organizations issued a temporary license shall post in a conspicuous location at the main point of sale and at all remote points of sale a sufficient number of signs stating that no fermented malt beverage shall be served to any under-age person and that proper identification may be required.
- (c) Fencing.**
- (1)* If necessary due to the physical characteristics of the site, the Village Board may require that organizations install a double fence around the main point of sale to control ingress and egress and continually station a licensed operator, security guard or other competent person at the entrance for the purpose of checking age identification. Where possible, there shall be only one (1) point of ingress and egress. When required, the double fence shall be a minimum of four (4) feet high and a minimum of six (6) feet between fences.
- (2)* For indoor events, the structure used shall have suitable exits and open spaces to accommodate anticipated attendance. It should contain adequate sanitary facilities to accommodate the size of the group.
- (d) Underage Persons Prohibited.** No underage persons as defined by the Wisconsin Statutes shall be allowed to assist in the sale of fermented malt beverages or wine at

any point of sale, nor shall they be allowed to loiter or linger in the area of any point of sale.

- (e) **Licensed Operators Requirement.** A licensed operator shall be stationed at all points of sales at all times.
- (f) **Waiver.** The Village Board may waive or modify the requirements of this Section due to the physical characteristics of the licensed site.
- (g) **Insurance.** The applicant for a temporary fermented malt beverage or wine license may be required to indemnify, defend and hold the Village and its employees and agents harmless against all claims, death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the license, the applicant shall be required to furnish a Certificate of Comprehensive General Liability and Liquor Liability insurance with the Village of Winneconne named. The applicant may be required to furnish a performance bond prior to being granted the license.

Cross Reference: Section 11-4-1.

Sec. 7-2-17 Revocation and Suspension of Licenses; Non—Renewal.

- (a) **Procedure.** Whenever the holder of any license under this Chapter violates any portion of this Chapter or Title 11, Chapter 4, of this Code of Ordinances, proceedings for the revocation of such license may be instituted in the manner and under the procedure established by this Section.
- (b) **Abandonment of Premises.** Any Licensee holding a license to sell alcohol beverages who abandons such business shall forfeit any right or preference he may have to the holding of or renewal of such license. Abandonment shall be sufficient grounds for revocation of any alcohol beverage license. The closing of the licensed premises for at least six (6) months shall be prima facie evidence of the abandonment, unless extended by the Village Board. All persons issued a license to sell alcohol beverages in the Village for which a quota exists limiting the number of such licenses that may be issued by the Village shall cause such business described in such license to be operated on the premises described in such license for at least one hundred fifty (150) days during the terms of such license, unless such license is issued for a term of less than one hundred eighty (180) days, in which event this Subsection shall not apply.
- (c) **License Revocation or Suspension.** License revocation or suspension procedures shall be as determined by Chapter 125, Wis. Stats.
- (d) **Point Values for Alcohol Beverages Violation, Revocations and Suspensions.**
 - (1) **Purpose and Definitions.** The purpose of this Subsection is to administratively interpret those portions of this Chapter relating to the establishment of an alcohol beverage demerit point system to assist in determining which license holders should be subject to suspension or revocation procedures.
 - (2) **Point Schedule.** The scale of demerit points is listed according to the type of alcohol beverage violation. This demerit point system is used to identify habitually troublesome license holders who have repeatedly violated state statutes and Village Ordinances for the purpose of recommending suspension or revocation of their alcohol beverage licenses.

Fermented Malt Beverages and Intoxicating Liquor
Article A: Fermented Malt Beverages and Intoxicating Liquor

Type of Violation	PointValue
1. Sale of alcohol beverages without license or permit; sale of controlled substances on licensed premises	100
2. Sale of alcohol beverages to underage person	50
3. Sale of alcohol beverages to intoxicated person	50
4. Underage person on premises	50
5. Intoxicated bartender; disorderly conduct on premises	50
6. After hours consumption	50
7. Refusal to allow police to search premises or refusal to cooperate with lawful police investigation	50
8. Licensee, agent or operator not on premises at all times	25
9. Persons on premises after closing hours	25
10. Violations of carry-out hours	25
11. Licensee permitting person to leave licensed premises with open alcohol beverage	25
12. All other violations of this Chapter	25

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

(4) *Suspension or Revocation of License.*

- a** The Village Board shall call before it for purposes of revocation or suspension hearing all licensees who have accumulated two hundred (200) points in a twelve (12) month period as a result of court imposed convictions.
- b** If the demerit point accumulation calculated from the date of violation amounts to two hundred (200) points in a twelve (12) month period, a suspension of thirty (30) days shall be imposed. If the demerit point accumulation is two hundred fifty (250) points (calculated from the date of violation) in a twenty-four (24) month period, a suspension of sixty (60) days shall be imposed. If the demerit point accumulation in a thirty-six (36) month period is three hundred (300) points, the suspension shall be for the maximum allowed by law, which is ninety (90) days. If the license is revoked no other license shall be granted to such licensee or for such premises for a period of twelve (12) months from the date of revocation.
- c** The procedure to be used for suspension or revocation shall be that found in

Subsection (c) above.

Sec. 7-2-18 Non-Alcohol Events for Underage Persons on Licensed Premises.

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

- (a) The Licensee or agent of a corporate Licensee shall notify the Police Department at least forty-eight (48) hours in advance of the date of any event at which underage persons will be present on the licensed premises. Each such non-alcohol event notice shall specify the date(s) on which the event is to occur and the time(s) of commencement. All notices shall be filed with the Police Department during normal working hours (8:00 a.m. to 5:00 p.m. Monday through Friday) and shall be given on forms determined by the Village. After a non-alcohol event notice has been given, the Licensee may cancel an event(s) only by giving like notice to the Police Department in accordance with the provisions of this Subsection. Regardless of the date given, all notices shall expire and be deemed cancelled no later than the date of expiration or revocation of the applicable retail Class "B", "Class B" or "Class C" license.
- (b) During the period of any non-alcohol event a notice card determined by the Police Department shall be posted at all public entrances to the licensed premises notifying the general public that no alcohol beverages may be consumed, sold or given away on or carried into the licensed premises during the event. Such notice cards shall be made available by the Village to a requesting Licensee.
- (c) Once a non-alcohol event has commenced, no alcohol beverages may be consumed, sold or given away on or carried into the licensed premises until the next day following the closing hours of the licensed premises.
- (d) During the period of any non-alcohol event all alcohol beverages shall be stored in a locked portion of the licensed premises in a secure place out of the sight and physical reach of any patron present and shall be under the direct and immediate control and supervision of the Licensee or a licensed bartender in the employ of the Licensee. All beer taps and automatic dispensers of alcohol beverages ("speed guns") shall be disconnected, disabled or made inoperable.

Sec. 7-2-19 Outdoor Sports and Beer Gardens Activities Regulated.

- (a) **Purpose.** The Village Board finds that restrictions are necessary for outdoor beer gardens and sports activities at premises holding "Class B" and Class "B" liquor and fermented malt beverages licenses due to concerns arising from noise, density and related problems. This Section enacted pursuant to police power provides a framework for regulatory controls on such outdoor sports and beer garden activities.
- (b) **Approval Required.**
 - (1) Generally. No Licensee shall conduct or sponsor any outdoor sports activity or event or beer garden on property forming any part of the real property on which the licensed premises exist without the prior approval of the Village Board.
 - (2) Permit Required for Beer Garden Outdoor Consumption. No licensee shall permit the consumption of alcohol beverages on any part of the licensed premises not enclosed within the building, except under a beer garden permit granted by the

- Village Board. The permits are a privilege in which no rights vest and, therefore, may be revoked by the Village Board at its pleasure at any time or shall otherwise expire on June 30 of each year. No person shall consume or have in his or her possession alcohol beverages on any unenclosed part of a licensed premise which is not described in a valid beer garden permit.
- (c) **Application.** If a Licensee shall conduct or sponsor any outdoor sports activity or event or beer garden on the Licensee's property, the Licensee shall file an application with the Clerk-Treasurer setting forth the following information:
- (1) The name, address and telephone number of the person or persons who will be responsible for the actual conduct of the activity or event;
 - (2) The date and duration of time for the proposed activity or event;
 - (3) An accurate description of that portion of the Licensee's property proposed to be used;
 - (4) A good faith estimate of the number of users, participants and spectators for the beer garden or proposed activity or event; and
 - (5) The Licensee's plan for maintaining the cleanliness of the licensed area.
- (c) **Time for Filing.** The Licensee shall file the application not less than fifteen (15) days before the date of the proposed activity or event. The Village Board may waive the fifteen (15) day time limit upon a Licensee's showing of exigent circumstances. The application shall be accompanied by payment of a fee as determined by Village Board for review of the application. The applicant may request that an annual permit be issued for the beer garden or outdoor sports activities.
- (d) **Review.** The Village Board shall review the applications in light of the standards of this Section. If the nature of the property or the event requires the imposition of additional regulations, the Village Board may impose these regulations upon an express finding detailing the reasons for additional regulation. All property owners within one hundred fifty (150) feet of the proposed beer garden or outside sports facility shall be notified of the pendency of application for a permit by first class mail.
- (e) **Outdoor Sports Activity Standards.** The following standards shall apply to any outdoor sports activity regulated under this Section:
- (1) Approval of an application shall not act to permit outdoor consumption of alcohol beverages on the property beyond the area specifically licensed.
 - (2) If the estimated number of participants and spectators shall bring the number of persons on the property above the number for which licensed premises' restroom facilities are rated adequate, the Licensee shall provide a number of portable temporary restrooms sufficient to serve the estimated number of persons.
 - (3) The Village Board shall not grant approval to any applicant whose property on which the activity or event is proposed is adjacent to any property zoned residential or on which a residential use exists as a nonconforming use, or within one hundred (100) feet of any property zoned residential or on which a residential use exists as a nonconforming use. Fencing may be required.
 - (4) The applicant shall provide parking adequate for the proposed activity or event, whether on-site or through agreements with property owners shown to the Village Board's satisfaction to permit their property to be used for parking for the proposed activity or event.
 - (5) The applicant shall show the Village Board plans adequate to provide reasonable access to participants and spectators for the event, and to limit access for all other persons.

- (6) The Licensee shall clean up all garbage and debris relating to the activity or event at least once per twenty-four (24) hours during the activity or event.
- (7) The Licensee shall not permit the noise level of the sports activity or event to exceed seventy-five (75) dB, measured at any border of the Licensee's real property.
- (f) **Limitations on Issuance of Beer Garden Permits.** No permit shall be issued for a beer garden if any part of the beer garden is within one hundred (100) feet of a structure used for residential purposes, except residential uses located in the same structure as the licensed premises or located on a commercially-zoned parcel. No permit shall be issued for a beer garden if the beer garden area is greater than fifty percent (50%) of the gross floor area of the adjoining licensed premises. Each applicant for a beer garden permit shall accurately describe the area intended for use as a beer garden and shall indicate the nature of fencing or other measures intended to provide control over the operation of the beer garden. Every beer garden shall be completely enclosed with a fence or wall not less than six (6) feet in height. No amplified sound or music is permitted outside the enclosed (building) premises. Amplified sound or music is not permitted in the beer garden: There shall be a licensed operator with the beer garden at all times the beer garden is in operation.
- (g) **State Statutes Enforced Within Beer Garden.** Every permittee under this Section shall comply with and enforce all provisions of Chapter 125, Wis. Stats., applicable to Class "B" licensed premises, except insofar as such provisions are clearly inapplicable. Violation of the provisions of Chapter 125, Wis. Stats., shall be grounds for immediate revocation of the outdoor sports activity or beer garden permit by the Village Board.
- (h) **Violations.** Failure of the Licensee to comply with any of the provisions of this Section shall be grounds for suspension, nonrenewal or revocation of the Licensee's alcohol beverage license or licenses.

Sec. 7-2-20 Nude Dancing in Licensed Establishments Prohibited.

- (a) **Authority.**
- (1) The Village Board of the Village of Winneconne has explicit authority under Sec. 125.10(1), Wis. Stats., to adopt regulations governing the sale of alcohol beverages which are in addition to those set forth in Ch. 125, Wis. Stats.; and
- (2) The Village Board has authority under its general police powers set forth in Ch. 61, Wis. Stats., to act for the good order of the municipality and for the health, safety and welfare of the public; and may carry out its powers by regulation and suppression; and
- (3) The Village Board recognizes it lacks authority to regulate obscenity and does not intend by adopting this Section to regulate obscenity, since nudity in and of itself is not obscene, it declares its intent to enact an ordinance addressing the secondary effects of live, totally nude, non-obscene, erotic dancing in bars and taverns; and
- (4) Bars and taverns featuring live totally nude, non-obscene, erotic dancing have in other communities tended to further the increase of criminal and other offensive activity, to disrupt the peace and order of the communities, to depreciate the value of real property, to harm the economic welfare of the communities and to negatively affect the quality of life of the communities; and such secondary effects

- are detrimental to the public health, safety and general welfare of citizens: and
- (5) The Village Board recognizes the U.S. Supreme Court has held that nude dancing is expressive conduct within the outer perimeters of the First Amendment to the United States Constitution and therefore entitled to some limited protection under the First Amendment, and the governing body further recognizes that freedom of speech is among our most precious and highly protected rights, and wishes to act consistently with full protection of those rights;
 - (6) However, the Village Board is aware, based on the experiences of other communities, that bars and taverns in which live, totally nude, non-obscene, erotic dancing occurs may and do generate secondary effects which the governing body believes are detrimental to the public health, safety and welfare of the citizens of the Village of Winneconne; and
 - (7) Among these secondary effects are:
 - a The potential increase in prostitution and other sex-related offenses, as well as other crimes and offenses;
 - b The potential depreciation of property values in neighborhoods where bars and taverns featuring nude dancing exist;
 - c Health risks associated with the spread of sexually transmitted diseases; and
 - d The potential for infiltration by organized crime for the purpose of unlawful conduct;
 - (8) The Village Board desires to minimize, prevent and control these adverse effects and thereby protect the health, safety and general welfare of the citizens of the Village of Winneconne; protect the citizens from increased crime; preserve the quality of life: preserve the property values and character of surrounding neighborhoods: and deter the spread of urban blight; and
 - (9) The Village Board has determined that enactment of an ordinance prohibiting live, totally nude, non-obscene, erotic dancing in bars and taverns licensed to serve alcohol beverages promotes the goal of minimizing, preventing and controlling the negative secondary effects associated with such activity.
- (b) Nude Dancing in Licensed Establishments Prohibited.** It is unlawful for any person to perform or engage in, or for any licensee or manager or agent of the licensee to permit any person, employee, entertainer or patron to perform or engage in any live act, demonstration, dance or exhibition on the premises of a licensed establishment which:
- (1) Shows his/her genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering; or
 - (2) Shows any portion of the female breast below a point immediately above the top of the areola; or
 - (3) Shows the covered male genitals in a discernibly turgid state.
- (c) Exemptions.** The provisions of this Section does not apply to the following licensed establishments; theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.
- (d) Definitions.** For purposes of this Section, the term "licensed establishment" means

Fermented Malt Beverages and Intoxicating Liquor
Article A: Fermented Malt Beverages and Intoxicating Liquor

any establishment licensed by the Village Board of the Village of Winneconne to sell alcohol beverages pursuant to Ch. 125, Wis. Stats. The term "licensee" means the holder of a retail "Class A", "Class B", Class "B", Class "A", or "Class C" licensee granted by the Village Board of the Village of Winneconne pursuant to Ch. 125, Wis. Stats.

- (e) **Penalties.** Any person, partnership or corporation who violates any of the provisions of this Section shall be subject to forfeiture pursuant to Section 1-1-6. A separate offense and violation shall be deemed committed on each day on which a violation occurs or continues. In addition, violation of this Section constitutes sufficient grounds for suspending, revoking or non-renewing an alcohol beverage license under Sec. 125.12, Wis. Stats.

Sec. 7-2-21 through Sec. 7-2-29 Reserved for Future Use.

Article B: Operator's License

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

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

(b) Use by Another Prohibited.

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

State Law Reference: Sections 125.17 and 125.32. Wis. Stats.

Sec. 7-2-31 Procedure Upon Application.

- (a) The Village Board may issue an operator's license, which license shall be granted only upon application in writing on forms to be obtained from the Village Clerk-Treasurer only to persons eighteen (18) years of age or older. Operator's licenses shall be operative only within the limits of the Village.
- (b) All applications are subject to an investigation by Village-designated law enforcement authorities and/or other appropriate authority to determine whether the applicant and/or premises to be licensed complies with all regulations, ordinances and laws applicable thereto. The investigating authority shall conduct an investigation of the applicant including, but not limited to, requesting information from the State, surrounding municipalities, and/or any community where the applicant has previously resided concerning the applicant's arrest and conviction record. Based upon such investigation, the investigating authority shall recommend, in writing, to the Village Board approval or denial of the application, assuming filing of proof of training. If the investigating authority recommends denial, the investigating authority shall provide,

in writing, the reasons for such recommendation.

Sec. 7-2-32 Duration.

Licenses issued under the provisions of this Chapter shall be valid for a period of two (2) years and shall expire on the thirtieth (30th) day of June.

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

- (a) **Fee.** The fee for a two (2) year operator's license shall be as determined by Village Board. The non-refundable fee for a provisional license shall be as determined by Village Board. There shall be no fee for a temporary operator's license.
- (b) **Provisional License.** The Village Clerk-Treasurer may issue provisional operator's licenses in accordance with Sec. 125.17(5), Wis. Stats. The provisional operator's license shall expire sixty (60) days after its issuance or when an operator's license is issued to the holder, whichever is sooner. The Chief of Police may be asked to submit to the Clerk- Treasurer a report regarding the applicant's conviction history, if any. The applicant for such provisional license must present evidence to the Clerk-Treasurer establishing that the applicant is enrolled in an Alcohol Awareness Training Program established pursuant to Sec. 125.17(a), Wis. Stats. or evidence of having taken such approved program. The Village Clerk-Treasurer may, upon receiving an application for a temporary provisional license, issue such a license without requiring the successful completion of the approved program as described herein. However, such temporary license shall be used only for the purpose of allowing such applicant the privilege of being licensed as a beverage operator pending his/her successful completion of the approved program or allowing an applicant who has successfully completed the approved program the privilege of being licensed as a beverage operator pending the issuance of an operator's license by the Village Board. No such Provisional Operators License shall be issued prior to a waiting period of less than ninety-six (96) hours [four (4) days], and the completion of a background check subject to limitations established by law. A provisional license may not be issued to any person who has been denied an operator's license by the Village Board or who has had his/her operator's license revoked or suspended within the preceding twelve (12) months. No person shall be issued more than three (3) provisional licenses in any twelve (12) month period. The Village Clerk-Treasurer shall provide an appropriate application form to be completed in full by the applicant. The Village Clerk-Treasurer may revoke the provisional license issued if he/she discovers that the holder of the license made a false statement on the application. A provisional license shall not be renewed.
- (c) **Temporary License.** The Village Clerk-Treasurer may issue a temporary operator's license provided that:
- (1) This license may be issued only to operators employed by, or donating their services to, nonprofit corporations.
 - (2) No person may hold more than one (1) license of this kind per year.
 - (3) The license is valid for any period from one (1) day to fourteen (14) days, and the period for which it is valid shall be stated on the license.

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

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

Sec. 7-2-35 Training Course.

- (a) Except as provided in Subsection (b) below, the Village Board may not issue an operator's license unless the applicant has successfully completed a responsible beverage server training course at any location that is offered by a vocational,

technical and adult education district and that conforms to curriculum guidelines specified by the board of vocational, technical and adult education or a comparable training course that is approved by the educational approval board or unless the applicant fulfills one of the following requirements:

- (1) The person is renewing an operator's license.
- (2) Within the past two (2) years, the person held a Class "A", Class "B", "Class A", "Class B", or "Class C" license or permit or a manager's or operator's license. (3) Within the past two (2) years, the person has completed such a training course.
- (b) The Village Board may issue a provisional operator's license to a person who is enrolled in a training, course under Subsection (a) above and shall revoke that license if the applicant fails successfully to complete the course in which he or she enrolls.
- (c) The Village Board may not require that applicants for operators' licenses undergo training in addition to that under Subsection (a), but may require applicants to purchase, at cost, materials that deal with relevant local subjects not covered in the course under Subsection (a).

Sec. 7-2-36 Display of License.

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

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

Violation of any of the terms or provisions of the State law or of this Chapter relating to operator's licenses by any person holding such operator's license shall he cause for revocation of the license

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

Article C: Penalties

Sec. 7-2-40 Penalties.

- (a) Forfeitures for violations of Sections 125.07(1)-(5) and 125.09(2), Wis. Stats., adopted by reference in Section 7-2-1 of the Code of Ordinances of the Village of Winneconne, shall conform to the forfeiture penalty permitted to be imposed for violations of the comparable State Statute, including any variations or increases for subsequent offenses.
- (b) Any person who shall violate any provision of this Chapter of the Code of Ordinances of the Village of Winneconne, except as otherwise provided in Subsection (a) herein or who shall conduct any activity or make any sale for which a license is required without a license, shall be subject to a forfeiture as provided in the bond fee schedule of this Code of the Village of Winneconne.
- (c) Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes.

Title 7 4 Chapter 3

Cigarette License

Sec. 7-3-1 Cigarette License.

Sec. 7-3-1 Cigarette License.

- (a) License Required.** No person, firm or corporation in the Village of Winneconne shall, in any manner, directly or indirectly, upon any premises, or by any device, sell, exchange, barter, dispose of or give away, or keep for sale, any cigarette, cigarette paper or cigarette wrappers, or any substitute therefore, without first obtaining a license as hereinafter provided.
- (b) Application for License; Fee.** Every person, firm or corporation desiring a license under this Section shall file with the Village Clerk-Treasurer a written application therefore, stating the name of the person and the place for which such license is desired. Each license shall be filed by the Village Clerk-Treasurer and shall name the licensee and the place wherein he/she is authorized to conduct such business, and the same shall not be delivered until the applicant shall pay to the Village Clerk-Treasurer a license fee as determined by Village Board.
- (c) Issuance and Term of License.** Licenses for the sale, exchange, barter, disposition of, or giving away or keeping for sale of cigarette paper or cigarette wrappers or any substitute therefor shall be issued by the Village Clerk-Treasurer. Each license shall be issued on the first day of July in each year, or thereafter whenever applied for, and shall continue in force from date of issuance until the succeeding June 30th unless sooner revoked for any violation of this Section.

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

Title 7 4 Chapter 4

Transient Merchants

- 7-4-1 Registration Required
- 7-4-2 Definitions
- 7-4-3 Exemptions
- 7-4-4 Registration
- 7-4-5 Investigation
- 7-4-6 Appeal
- 7-4-7 Regulation of Transient Merchants
- 7-4-8 Revocation of Registration
- 7-4-9 Special Event Vending Permit

Sec. 7-4-1 Registration Required.

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

State Law Reference: Sec. 66.0423, Wis. Stats.

Sec. 7-4-2 Definitions.

In this Chapter the following definitions shall be applicable:

- (a) **Transient Merchant.** Any individual who engages in the retail sale of merchandise at any place in this state temporarily, and who does not intend to become and does not become a permanent merchant of such place. The term shall include, but not be limited to, peddlers, solicitors and transient merchants. The sale of goods includes donations required by the transient merchant for the retention of goods by a donor or prospective customer. For purposes of this Section, sale of merchandise includes a sale in which the personal services rendered upon or in connection with the merchandise constitutes the greatest part of value for the price received, but does not include the sale of produce or other perishable products at retail or wholesale by a resident of this state.
- (b) **Permanent Merchant.** Any person who, for at least one (1) year prior to the consideration of the application of this Chapter to said merchant:
 - (1) Has continuously operated an established place of business in the Village; or
 - (2) Has continuously resided in the Village and now does business from his/her residence.
- (c) **Merchandise.** Shall include personal property of any kind, and shall include merchandise, goods, or materials provided incidental to services offered or sold. The sale of merchandise includes donations required by the seller for the retention of merchandise by a donor or prospective customer.
- (d) **Charitable Organization.** Shall include any benevolent, philanthropic, religious, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such, including, for example, Boy Scouts, Girl Scouts, 4-H Clubs and school organizations.
- (e) **Clerk-Treasurer.** The Village of Winneconne Clerk-Treasurer or Deputy Clerk-Treasurer.
- (f) **Person.** All humans of any age or sex, partnerships, corporations, associations, groups, organizations and any other description of a collection of human beings working in concert or for the same purpose or objective.

Sec. 7-4-3 Exemptions.

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

- (a) **Regular Delivery Routes.** Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes.
- (b) **Wholesalers.** Any person selling merchandise at wholesale to dealers in such merchandise;
- (c) **Agricultural Products.** Any person selling Wisconsin agricultural products which the person has grown;
- (d) **Deliveries by Permanent Merchants.** Any permanent merchant or employee thereof who takes orders at the home of the buyer for merchandise regularly offered for sale by such merchant within this county and who delivers such merchandise in their regular course of business;

- (e) **Requested Home Visits.** Any person who has an established place of business where the merchandise being sold or is offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested, a home visit by, said person:
- (f) **Prior Sales Transactions.** Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale' or credit arrangement, with the prospective customer;
- (g) **Services Not Offering Merchandise.** Any person selling or offering for sale a service unconnected with the sale or offering for sale of merchandise;
- (h) **Auctions; Sales Authorized by Statute.** Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law;
- (i) **Charitable Organizations; Limited Exemptions.** Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization, provided that there is submitted to the Village Clerk-Treasurer proof that such charitable organization is registered under Sec. 440.41, Wis. Stats. Any charitable organization engaging in the sale of merchandise and not registered under Sec. 440.41, Wis. Stats.. or which is exempt from that statute's registration requirements, shall be required to register under this Chapter.
- (j) **Alleged Transient Merchants.** Any person who claims to be a permanent merchant, but against whom complaint has been made to the Village Clerk-Treasurer that such person is a transient merchant, provided that there is submitted to the Village Clerk-Treasurer proof that such person has leased for at least one (1) year, or purchased, the premises from which he/she is conducting business, or proof that such person has conducted such business in this Village for at least one (1) year prior to the date complaint was made.
- (k) **Persons Licensed by Examining Boards.** Any individual licensed by an examining board as defined in Sec. 15.01(7), Wis. Stats.
- (l) **Village Authorized Events.** This Chapter does not apply to transient merchants while doing business at special events authorized by the Village Board.
- (m) **Resident Minors.** Minors under eighteen (18) years of age who are residents of the
- (n) **Winneconne School District** of which the Village of Winneconne is a part.
- (o) **Solicitors.** Persons not engaged in commercial activity and are soliciting support for political, religious, or similar non-commercial programs or organizations.

Sec. 7-4-4 Registration.

- (a) **Registration Information.** Applicants for registration must complete and return to the Village Clerk-Treasurer a registration form furnished by the Clerk-Treasurer which shall require the following information:
 - (1) Name, permanent address and telephone number, and temporary address, if any;
 - (2) Height, weight, color of hair and eyes, and date of birth;
 - (3) Name, address and telephone number of the person, firm, association or corporation that the transient merchant represents or is employed by, or whose merchandise is being sold;
 - (4) Temporary address and telephone number from which business will be conducted, if any;
 - (5) Nature of business to be conducted and a brief description of the merchandise offered and any services offered;
 - (6) Proposed method of delivery of merchandise, if applicable;
 - (7) Make, model and license number of any vehicle to be used by applicant in the conduct of

- his business;
- (8) Last cities, villages, towns, not to exceed three (3), where applicant conducted similar business just prior to making this registration.
 - (9) Place where applicant can be contacted for at least seven (7) days after leaving this Village;
 - (10) Statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's transient merchant business within the last five (5) years, the nature of the offense and the place of conviction.
- (b) Identification and Certification.** Applicants shall present to the Village Clerk-Treasurer for examination:
- (1) A driver's license or some other proof of identity as may be reasonably required;
 - (2) A state certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighing and measuring devices approved by state authorities;
 - (3) A state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than ninety (90) days prior to the date the application for license is made.
- (c) Registration Fee.**
- (1) At the time of filing applications, a fee as determined by the Village Board shall be paid to the Clerk-Treasurer to cover the cost of investigation of the facts stated in the applications and for processing said registration. Every member of a group must file a separate registration form.
 - (2) The applicant shall sign a statement appointing the Village Clerk-Treasurer his/her agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant, in the event the applicant cannot, after reasonable effort, be served personally.
 - (3) Upon payment of said fees and the signing of said statement, the Village Clerk- Treasurer shall register the applicant as a transient merchant and date the entry. Said registration shall be valid for a period of one (1) year from the date of entry, subject to subsequent refusal as provided in Sec. 7-4-5(b) below.
- (d) Bond.** Every applicant who is not a resident of Winnebago County or who represents a firm whose principal place of business is located outside of the State shall file with the Clerk-Treasurer a surety bond in the amount of Five Hundred Dollars (\$500.00). Conditioned that the applicant will comply with all provisions of the ordinances of the Village and the State laws regulating peddlers, canvassers, solicitors and transient merchants, and guaranteeing to any person doing business with the licensee that all money paid as a down payment will be accounted for and applied according to the representations of the licensee; and further guaranteeing that property purchased for future delivery will be delivered according to the representations of the licensee. Action on such bond may be brought by any person aggrieved.
- (e) Solicitors.** Solicitors of funds or donations for charitable or other organizations shall be exempt from registration.

Sec. 7-4-5 Investigation

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

Sec. 7-4-6 Appeal

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

Sec. 7-4-7 Regulation of Transient Merchants

(a) Prohibited Practices

- (1) A transient merchant shall be prohibited from: calling at any dwelling or other place between the hours of 8:00 p.m. and 8:00 a.m. except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning; calling at the rear door of any dwelling place; or remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.
- (2) A transient merchant shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any merchandise offered for sale, the purpose of his/her visit, his/her identity or the identity of the organization he/she represents. A charitable organization transient merchant shall specifically disclose what portion of the sale price of merchandise being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the merchandise.
- (3) No transient merchant shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.
- (4) No transient merchant shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being, plainly heard outside a one hundred (100) foot radius of the source.
- (5) No transient merchant shall allow rubbish or litter to accumulate in or around the area in which he/she is conducting business.

(b) Disclosure Requirements.

- (1) After the initial greeting and before any other statement is made to a prospective customer, a transient merchant shall expressly disclose his name, the name of the company or organization he/she is affiliated with, if any, and the identity of merchandise

or services he/she offers to sell.

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

Sec. 7-4-8 Revocation of Registration.

- (a) Registration may be revoked by the Village Board after notice and hearing if the registrant made any material omission or materially inaccurate statement in the application for registration, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales, violated any provision of this Chapter or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling.
- (b) Written notice of the hearing shall be served personally or pursuant to Section 7-4-4(c) on the registrant at least seventy-two (72) hours prior to the time set for the hearing; such notice contain the time and place of hearing and a statement of the acts upon which the hearing will be based.

Sec. 7-4-9 Special Event Vending Permit.

- (a) **Permit Required.** There shall be a per day charge as determined by Village Board for a special event vending permit. The Village Board will determine whether the applicant qualifies for a special event vending permit. The permit shall set forth the exact dates on which, and the exact location where, such business shall be carried on and shall be valid only during the dates and at the locations specified. In addition, the vendor shall have adequate liability insurance in force as required by this Section.
- (b) **Exclusive Vending Rights During Special Events.**
 - (1) During a special event the Village Board may, by resolution, and after a public hearing, suspend specifically enumerated restrictions on transient merchants on any street, alley, sidewalk or public square and public park. Alternative rules and procedures may be established by the Village Board for the special event.
 - (2) To encourage the integrity, comprehensiveness and success of a special event taking place on any street, alley, sidewalk, public square or public park, the Village Board may by resolution and after public hearing reserve up to ten (10) days during any vending year when transient merchant permits will not be valid at a particular location and when some or all categories of transient merchant permits will not be valid in the perimeter of the

special event. During any special event, the rules, guidelines and procedures as set forth in the resolution approved by the Village Board shall take precedence.

- (3) For each such specific day during which certain or all vending permits have been declared to be not valid, the Village Board may by separate resolution and after public hearing, authorize the sponsor of a special event to select vendors, salespersons and vending sites for the duration of the special event within its perimeter. The event's sponsor shall contact the Village Board at least one (1) week before the public hearing with an outline of the rules, regulations, fees, areas affected and a proposed resolution for exclusive vending rights. The determinations of the Village Board as to any specific day during which a transient merchant permit will not be valid shall be by resolution adopted at least four (4) weeks in advance of such specific day. Transient merchant permits shall be subject to invalidation for up to ten (10) days each vending year of any one (1) location as provided in this subdivision.
- (4) No person holding a transient merchant permit may sell or offer for sale any goods or foods during a special event when his/her license is not valid unless authorized by the sponsor of the special event as specified above.

Title 7 4 Chapter 5

Sidewalk Seating

7-5-1 Sidewalk Seating

Sec. 7-5-1 Sidewalk Seating

- (a) **Definitions.** The following words, terms and phrases, when used in this Section, shall have the meanings given in this Section, except where the context clearly indicates a different meaning.
- (1) **Initial application** means the first Sidewalk Seating Area permit applied for by an owner or licensee.
 - (2) **Renewal permit** means a permit that is applied for by April 15 of a year by a currently valid Sidewalk Seating Area permittee.
 - (3) **Sidewalk** has the meaning given in Wis. Stat. § 340.01(58).
 - (4) **Sidewalk Seating Area** means the area designated in the permit and includes any group of tables, chairs, benches, barriers or partitions, trash containers, and suitable decorative devices maintained upon any part of the sidewalk in the permit area.
- (b) **Location.** A Sidewalk Seating Area may be permitted on public sidewalks on Main Street contiguous to an applicant's business only, and may be located only on that portion of the public sidewalk that is directly adjacent to the building, or portion of the building, where the permittee's business is located, and shall not be in conflict with zoning requirements. There shall be a minimum five (5) foot sidewalk clearance between the permittee's building and the sidewalk seating.
- (c) **Permit Required.** No person or business shall maintain a Sidewalk Seating Area unless a permit for the Sidewalk Seating Area has been issued under this Section.
- (1) Permit fees shall be charged under this Section only for those businesses which operate a Sidewalk Seating Area in which alcohol beverages are sold, offered for sale, served, or consumed.
 - (2) Any businesses which sell, offer for sale, serve, or consume any alcohol beverages in a Sidewalk Seating Area without paying the permit fee are in violation of this Section and subject to penalty.
 - (3) Under no circumstances may a permit be issued to any business from which fifty percent (50%) or more of the revenue from the business is the result of revenue generated from the sale of alcohol beverages.
- (d) **Application.**
- (1) An applicant for a permit under this section shall file an application form and the permit fee, if required, with the Village Clerk, who shall provide the application form. The application shall be signed by the applicant and, if the business is a tenant, by the applicant's landlord. The initial application shall be accompanied by a scale drawing of the site requested to be used, showing the location of all trees, poles, furniture, equipment, fixed barriers and other items that will be located:
 - a In the Sidewalk Seating Area;
 - b Between the Sidewalk Seating Area and the street curbing; and
 - c Within ten (10) feet beyond each end of the Sidewalk Seating Area.
 - d Photographs, pictures from a sales catalog or detailed drawings of the furniture and equipment proposed for use, with dimensions and colors, shall be submitted with the application. No application shall be approved unless the applicant has proof of the required insurance.
 - (2) If alcohol beverages are to be sold or served in a Sidewalk Seating Area, the applicant shall apply for a temporary extension of the applicant's alcohol license covering the

outdoor area where alcohol beverages will be sold, served or consumed.

- (3) A renewal application for a Sidewalk Seating Area permit that changes the type or location of the Sidewalk Seating Area furniture, furnishings, equipment or area, shall be referred, together with a scale drawing, photographs, and pictures or detailed drawings, to the Village Administrator for review and recommendation.
- (4) The Beautification Committee shall review the design, type of furniture, furnishings and equipment proposed by the applicant and determines whether any of it detracts from the aesthetics of the area surrounding the proposed Sidewalk Seating Area and shall make a recommendation to the Village Board. In addition, prior to the aforementioned submission by the Beautification Committee to the Village Board, the Village Administrator shall review the application for compliance with zoning requirements.
- (e) **Permit, Period and Fee.** The permit year shall commence May 1 or thereafter when the permit is issued, and shall expire on April 30 following its issuance. An initial fee for a Sidewalk Seating Area permit shall be as established by the Village Board, which shall be paid to the Village Clerk at the time the applicant submits the completed application. The permit shall not be prorated for a partial year.
- (f) **Renewal Permit.** The fee for a renewal permit for a Sidewalk Seating Area permit shall be established by the Village Board; said fee shall be paid to the Village Clerk at the time the applicant submits the completed renewal application. The permit shall not be prorated for a partial year. If the Village Clerk receives a completed application for a renewal permit for a Sidewalk Seating Area, the appropriate fee, and all documentation as required by this Section, no changes have been made to the site being used for the Sidewalk Seating Area or to the furniture, furnishings, or equipment being used, and the permittee has not been cited for or convicted of a permit violation or an alcohol license violation relating to the Sidewalk Seating Area, then no committee action is necessary and the Village Clerk may forthwith issue the permit.
- (g) **Revocation, Suspension, Nonrenewal.** In addition to any other penalty provided under this section, any Sidewalk Seating Area permit issued hereunder may, after notice and hearing, be suspended for a specific period of time, or not renewed or revoked, for violation of any provisions of this Section or of any other law, ordinance or regulation which is substantially related to the permit activity.
- (h) **Insurance.** No applicant shall be issued a Sidewalk Seating Area permit unless the applicant provides proof of the following insurance in amounts not less than stated, with an admitted carrier in the State of Wisconsin that has a "Best" rating of "A-VM" or better, covering the Sidewalk Seating Area: Commercial general liability:
 - (1) \$1,000,000 per occurrence/general aggregate.
 - (2) Worker's compensation: statutory.
 - (3) Employer's liability: \$300,000 disease policy limit; \$100,000 per employee.
 - (4) The permittee shall also provide, upon request, policies and endorsements. The policies shall be endorsed to name the Village, its officers, employees and authorized volunteers as additional insureds, and shall provide that the policies of insurance shall not be canceled or altered without thirty (30) days prior written notice to the Village. The insurance requirements are not intended to waive any immunity or statutory procedures that the Village may have or be entitled to under provisions of law.
- (i) **Restrictions.**
 - (1) **Signage.** No signs shall be allowed in the Sidewalk Seating Area; provided, however, a

permittee will be allowed to maintain an informational sign regarding the use of the Sidewalk Seating Area with said signage being no larger than 12 inches by 14 inches. Advertising on umbrellas is specifically prohibited.

- (2) **Furnishings.** The permittee shall use, and maintain in good repair, safe, sturdy furniture, furnishings and equipment which enhance the aesthetics of the surrounding area. Umbrellas shall be anchored so that a sudden burst of wind will not lift them out of their holders or blow them over. All tables, chairs, and other structures associated with the Sidewalk Seating Area shall be kept free of litter and other debris at all times. All tables, chairs, umbrellas must be uniform with other establishments on Main Street and must be approved by the Village Beautification Committee.
- (3) **Hours.** A Sidewalk Seating Area may be open between May 1st and November 1st. A Sidewalk Seating Area may be open for business between the hours of 6:00 a.m. and 10:00 p.m.; provided, however, no alcohol beverages may be served in the Sidewalk Seating Area. Alcohol beverages may only be served in a Sidewalk Seating Area between 11:00 a.m. and 10:00 p.m. by a permittee authorized to serve alcohol beverages in said Area.
- (4) **Lighting.** No additional exterior lighting is permitted in the Sidewalk Seating Area.
- (5) **Music/noise.** The permittee shall not direct or allow to be directed, music directly into the outdoor area by means of outdoor speakers or jukeboxes, nor shall permittee allow live music in the Sidewalk Seating Area.
- (6) **Unobstructed sidewalk, hydrants, standpipes.** The permittee shall provide at least five (5) feet of unobstructed sidewalk for pedestrian right-of-way past the Sidewalk Seating Area, and shall not place anything within three (3) feet of the curb or street. No permittee shall obstruct access to a fire hydrant or standpipe nor obstruct the view of the hydrant or standpipe from the street.
- (7) **Compliance with laws.** The permittee shall comply with all applicable federal, state and local laws, regulations and ordinances.
- (8) **Patron service.** No person may be served food or alcohol in the Sidewalk Seating Area unless seated.
- (9) **Locations next to truck, freight, or passenger loading zones.** No portion of a Sidewalk Seating Area shall be located adjacent to any truck, freight, or passenger loading zone, nor adjacent to any disabled parking space.
- (10) **Use of public property.** No Sidewalk Seating Area permittee may use any public property such as light poles or other utility poles, flower planters, trees, or other amenities as a point of attachment for anything, including ropes, posters or signs.
- (11) **Boundaries of Sidewalk Seating Area.** No part of a Sidewalk Seating Area shall be placed beyond the approved boundaries of the Sidewalk Seating Area site as set forth on the permit.
- (12) **Barriers for Sidewalk Seating Area.** A permittee that is allowed to sell or serve alcohol beverages shall maintain fencing or a barrier establishing the boundaries of the Sidewalk Seating Area on at least three sides, which shall be between 34 inches and 38 inches high, and shall not extend into the area outside the Sidewalk Seating Area authorized in the permit; said fencing or barrier shall be approved by the Beautification Committee.
- (13) **Obstruction of traffic.** No permittee may place, construct or maintain fencing, a barrier or any other object that would obstruct the view for traffic on the streets, alleyways, driveways or for any vehicle traffic path.

- (14) **Trash removal.** The permittee shall remove all trash from the Sidewalk Seating Area on a regular basis during business hours, and shall keep the Sidewalk Seating Area in a clean, orderly, litter-free and hazard-free condition. The permittee shall remove litter from the abutting properties which may have come from the Sidewalk Seating Area. The permittee shall not place any solid waste in the Village solid waste containers. Cleaning of the Sidewalk Seating Area must be completed no later than 10:30 p.m. each day.
- (15) **Distance requirements.** The permittee shall allow for at least five (5) feet of clear and unobstructed passage between Sidewalk Seating Area tables, chairs, and barriers with all street trees, lampposts, signposts, and any other fixtures or obstructions. The permittee shall also allow for a minimum three (3) foot clear and unobstructed area between the Sidewalk Seating Area tables, chairs, barriers, and curb. The permittee shall also allow at least a five (5) foot unobstructed area from the café and all driveways and alleys, and at least ten (10) feet from all intersections.
- (16) **Animals.** No animals, except those assisting individuals with disabilities, are permitted in the Sidewalk Seating Area where food is served.
- (17) **Beverage storage devices.** No taps, kegs, coolers, or other beverage storage devices are allowed outdoors.
- (18) **Outdoor heating devices.** No outdoor heating device of any kind is permitted in the Sidewalk Seating Area.
- (19) **Equipment.** Busing stations, trash receptacles, food preparation stations, or restaurant service equipment are prohibited outdoors.
- (20) **Merchandise display.** No merchandise may be displayed in the Sidewalk Seating Area.
- (21) **Electrical connection.** No connections to municipal power sources are permitted.
- (22) **Outdoor cooking.** No outdoor cooking is permitted.
- (23) **Supervision.** The Sidewalk Seating Area must be continuously supervised by employees of the permittee.
- (j) **Service Of Alcoholic Beverages.** A permittee may sell and serve alcohol beverages in an outdoor café only if the permittee complies with all the requirements for obtaining an alcohol beverage temporary extended area license, and the Sidewalk Seating Area is listed on the alcohol beverage license application as being an extension of the licensed premises. Alcohol may be served in a Sidewalk Seating Area under the following conditions:
- (1) The permittee has a valid and appropriate retail alcohol beverage license for the principal premises. The retail alcohol beverage license includes the Sidewalk Seating Area in the description of the licensed premises as an extended area.
 - (2) The retail alcohol beverage license permits the sale of the type of alcohol beverages to be served in the Sidewalk Seating Area.
 - (3) Alcohol beverages are sold and served by the licensee or licensee's employees and sold or served only to patrons seated at tables in the Sidewalk Seating Area. Alcohol beverages are served by the licensee or the licensee's employees in compliance with the alcohol beverage laws, ordinances and regulations. All alcohol beverages must be carried to the Sidewalk Seating Area by licensed servers only.
 - (4) Alcohol beverages may only be served in the Sidewalk Seating Area with food service through the licensed establishment.
 - (5) The permittee shall be responsible for policing the Sidewalk Seating Area to prevent underage persons from consuming or possessing alcohol beverages.
 - (6) The permittee shall not allow patrons of the Sidewalk Seating Area to bring alcohol

Sidewalk Seating

beverages into the Sidewalk Seating Area from another location, nor to carry open containers of alcohol beverages about in the Sidewalk Seating Area, nor to carry open containers of alcohol beverages served in the Sidewalk Seating Area outside the Sidewalk Seating Area.

- (7) The bar from which the alcohol beverages are dispensed shall be located indoors and shall not be located in the Sidewalk Seating Area.
- (8) At times of closing or during times when consumption of alcohol beverages is prohibited, permittee shall remove from the Sidewalk Seating Area all containers used for or containing alcohol beverages. No container of alcohol beverages shall be present in the Sidewalk Seating Area between 10:00 p.m. and 11:00 a.m.
- (9) All beverages served in the Sidewalk Seating Area must be served in plastic glasses.
- (10) No sale of food, alcohol, beverages or any other products may be conducted from a window or other opening adjacent to the Sidewalk Seating Area.
- (k) Reservation.** The Village reserves the right to temporarily order the discontinuation of the operation of public outdoor seating at any time because of anticipated or actual problems or conflicts in the use of the Sidewalk Seating Area, including but not limited to the following: festivals, parades, marches, road races, repairs to streets or sidewalks, and any other emergency situation effecting the sidewalk area.
- (l) Hold Harmless Agreement.** A condition of the issuance of the permit pursuant to this Section is the execution by the applicant of an Indemnification Agreement by the applicant in a form exclusively acceptable to the Village. A further condition of the issuance of the permit pursuant to this Section is the execution by the applicant of an Agreement whereby the applicant agrees to repair any damage caused to the area of the Sidewalk Seating Area as a result of the applicant's operation in said area; the Agreement shall be in a form exclusively acceptable to the Village.
- (m) Other Permits.** The applicant must obtain all other permits required by any other governmental entity and remain in compliance with the issuance of said permits by any other governmental entity. Failure to comply may result in revocation of the permit issued by this Section by the Village.
- (n) Penalty.** Any person who violates this division shall, upon conviction, forfeit not less than \$100.00 nor more than \$1,000.00. Each day of a violation is a separate offense.

Title 7 4 Chapter 6

Regulation and Licensing of Fireworks

7-6-1 Regulation of Fireworks.

Sec. 7-6-1 Regulation of Fireworks.

- (a) **Definition.** In this Section, "fireworks" means anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use, but does not include any of the following:
- (1) Fuel or a lubricant.
 - (2) A firearm cartridge or shotgun shell.
 - (3) A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.
 - (4) A match, cigarette lighter, stove, furnace, candle, lantern or space heater.
 - (5) A cap containing not more than one-quarter (1/4) grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.
 - (6) A toy snake which contains no mercury.
 - (7) A model rocket engine.
 - (8) Tobacco and a tobacco product.
 - (9) A sparkler on a wire or wood stick not exceeding thirty-six (36) inches in length or 0.25 inch in outside diameter which does not contain magnesium, chlorate or perchlorate.
 - (10) A device designed to spray out paper confetti or streamers and which contains less than one-quarter (1/4) grain of explosive mixture.
 - (11) A device designed to produce an audible sound but not explode, spark, move or emit an external flame after ignition and which does not exceed three (3) grams in total weight.
 - (12) A device that emits smoke with no external flame and does not leave the ground.
 - (13) A cylindrical fountain not exceeding one hundred (100) grams in total weight with an inside tube diameter not exceeding 0.75 inch, designed to sit on the ground and emit only sparks and smoke.
 - (14) A cone fountain not exceeding seventy-five (75) grams in total weight, designed to sit on the ground and emit only sparks and smoke.
- (b) **Sale.** No person may sell or possess with intent to sell fireworks, except:
- (1) To a person holding a permit under Subsection (c)(3);
 - (2) To a municipality; or
 - (3) For a purpose specified under Subsection (c)(2)b-f.
- (c) **Use.**
- (1) **Permit Required.** No person may possess or use fireworks without a user permit from the Village President or from an official or employee of the Village as designated by the Village Board. No person may use fireworks or a device listed under Subsection (a)(5)-(7) and (9)-(14) while attending a fireworks display for which a permit has been issued to a person listed under Subparagraph (c)(3)a-e or under Subparagraph (c)(3)f if the display is open to the general public. A fee as determined by the Village Board shall be paid at the time of application.
 - (2) **Permit Exceptions.** Subparagraph (c)(1) above does not apply to:
 - a The Village, except that Village fire officials shall be notified of the proposed use of fireworks at least two (2) days in advance.
 - b The possession or use of explosives in accordance with rules or general orders of the Wisconsin Department of Commerce.
 - c The disposal of hazardous substances in accordance with rules adopted by the

Wisconsin Department of Natural Resources.

- d** The possession or use of explosive or combustible materials in any manufacturing process.
 - e** The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.
 - f** A possessor or manufacturer of explosives in possession of a license or permit under 18 U.S.C. 841 to 848 if the possession of the fireworks is authorized under the license or permit.
- (3) Who May Obtain Permit?** A permit under this Subsection may be issued only to the following:
- a** A public authority.
 - b** A fair association.
 - c** An amusement park.
 - d** A park board.
 - e** A civic organization.
 - f** A group of resident or nonresident individuals.
- (4) Bond.** The Village President issuing a permit under this Subsection shall require an indemnity bond with good and sufficient sureties or policy of liability insurance for the payment of all claims that may arise by reason of injuries to person or property from the handling, use or discharge of fireworks under the permit. The bond or policy shall be taken in the name of the Village, and any person injured thereby may bring an action on the bond or policy in the person's own name to recover the damage the person has sustained, but the aggregate liability of the surety or insurer to all persons shall not exceed the amount of the bond or policy. The bond or policy, together with a copy of the permit, shall be filed in the officer of the Village.
- (5) Required Information for Permit.** A permit under this Subsection shall specify all of the following:
- a** The name and address of the permit holder.
 - b** The date on and after which fireworks may be purchased.
 - c** The kind and quantity of fireworks, which may be purchased.
 - d** The date and location of permitted use.
 - e** Other special conditions determined by ordinance.
- (6) Use Restrictions.** Permitted fireworks may only be used if such use is a minimum of twenty-five (25) feet away from any structure. Use of fireworks is prohibited after 11:00 p.m.
- (7) Copy of Permit.** A copy of a permit under this Subsection shall be given to the Fire Chief at least two (2) days before the date of authorized use.
- (8) Minors Prohibited.** A permit under this Subsection may not be issued to a minor.
- (d) Storage and Handling.**
- (1) Fire Extinguishers Required.** No wholesaler, dealer or jobber may store or handle fireworks on the premises unless the premises are equipped with fire extinguishers approved by the Fire Chief.
 - (2) Smoking Prohibited.** No person may smoke where fireworks are stored or handled.
 - (3) Fire Chief to be notified.** A person who stores or handles fireworks shall notify the Fire Chief of the location of the fireworks.
 - (4) Storage Distance.** No wholesaler, dealer or jobber may store fireworks within five

hundred (500) feet of a dwelling.

- (5) **Restrictions on Storage.** No person may store fireworks within five hundred (500) feet of a public assemblage or place where gasoline or volatile liquid is sold in quantities exceeding one (1) gallon.
- (e) **Parental Liability.** A parent or legal guardian of a minor who consents to the use of fireworks by the minor is liable for damages caused by the minor's use of the fireworks.
- (f) **Temporary Sales of Fireworks.** Temporary or seasonal sales of fireworks from a temporary sales stand, not to exceed thirty (30) days in one (1) calendar year, is permitted only after issuance of a zoning conditional use permit as determined by Title 13, Chapter 1 (Village Zoning Code).

State Law Reference: Sec. 167. 10, Wis. Stats.

Title 7 4 Chapter 7

Street Use Permits

7-7-1 Street Use Permits

Sec. 7-7-1 Street Use Permits.

- (a) **Purpose.** The streets in possession of the Village are primarily for the use of the public in the ordinary way. However, under proper circumstances the Village Board may grant a permit for street use, subject to reasonable municipal regulation and control. Therefore, this Chapter is enacted to regulate and control the use of streets pursuant to a Street Use Permit to the end that the health, safety and general welfare of the public and the good order of the Village can be protected and maintained.
- (b) **Application.** A written application for a Street Use Permit by persons or groups desiring the same shall be made on a form provided by the Village Clerk-Treasurer and shall be filed with the Village Clerk-Treasurer. A fee as determined by the Village Board shall be paid at the time of application. The Village Board grants such permits. The application shall set forth the following information regarding the proposed street use:
- (1) The name, address and telephone number of the applicant or applicants.
 - (2) If the proposed street use is to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorizing responsible heads of such organization.
 - (3) The name, address and telephone number of the person or persons who will be responsible for conducting the proposed use of the street.
 - (4) The date and duration of time for which the requested use of the street is proposed to occur.
 - (5) An accurate description of that portion of the street proposed to be used.
 - (6) The approximate number of persons for whom use of the proposed street area is requested.
 - (7) The proposed use, described in detail, for which the Street Use Permit is requested.
- (c) **Representative at Meeting.** The person or representative of the group making application for a Street Use Permit shall be present when the Village Board gives consideration to the granting of said Street Use Permit to provide any additional information which is reasonably necessary to make a fair determination as to whether a permit should be granted.
- (d) **Denial of Street Use Permit.** An application for a Street Use Permit may be denied if:
- (1) The proposed street use is primarily for private or commercial gain.
 - (2) The proposed street use would violate any federal or state law or any Ordinance of the Village.
 - (3) The proposed street use will substantially hinder the movement of police, fire or emergency vehicles, constituting a risk to persons or property.
 - (4) The application for a Street Use Permit does not contain the information required above.
 - (5) The application requests a period for the use of the street in excess of five (5) days.
 - (6) The proposed use could equally be held in a public park or other location. In addition to the requirement that the application for a Street Use Permit shall be denied, as hereinabove set forth, the Village Board may deny a permit for any other reason or reasons if it concludes that the health, safety and general welfare of the public cannot adequately be protected and maintained if the permit is granted.
- (e) **Insurance.** The applicant for a Street Use Permit may be required to indemnify, defend and hold the Village and its employees and agents harmless against all claims, liability, loss, damage or expense incurred by the Village on account of any injury to or death of any person or any damage to property caused by or resulting from the activities for which the permit is

granted. As evidence of the applicant's ability to perform the conditions of the permit, the applicant may be required to furnish a Certificate of Comprehensive General Liability Insurance with the Village of Winneconne. The applicant may be required to furnish a performance bond prior to being granted the permit.

- (f) **Special Community Event Exception.** The requirements of Subsections (d) and (g) are not applicable to certain community events recognized by the Village Board as falling within this exception. Open consumption and/or sales of alcoholic beverages may be allowed for these limited community events.
- (g) **Cleanup Requirements.** The holder of any permit issued under this Section shall return the street to the condition that existed prior to the use, by the time the permit expires. The Village will make such restoration in the event that the permit holder for the cost incurred by the Village in performing this work. Failure to make timely payment within a reasonable time after receiving the statement for cleaning work shall constitute grounds for refusal to grant the permit holder any other permit in the future.
- (h) **Termination of a Street Use Permit.** A Street Use Permit for an event in progress may be terminated by the Village President or a law enforcement officer if the health, safety and welfare of the public appears to be endangered by activities generated as a result of the event or the event is in violation of any of the conditions of the permits or ordinances of the Village of Winneconne. The Village President or a law enforcement officer has the authority to revoke a permit or terminate an event in progress if the event organizers fail to comply with any of the regulations in the street use policy or conditions stated in the permit.

Title 7 4 Chapter 8

Regulation of Large Assemblies of Persons

7-8-1 Permits for Large Public Gatherings

Sec. 7-8-1 Permits for Large Public Gatherings.

(a) Intent.

(1) It is the purpose of the Village Board to regulate the assemblage of large numbers of people, in excess of those normally needing the health, sanitary, fire, police, transportation and utility services regularly provided in the Village of Winneconne in order that the health, safety and welfare of all persons in the Village, residents and visitors alike, may be protected.

(2) The purpose and intent of this Section is to establish site approval for locations in the Village of Winneconne used temporarily for large gatherings, as defined in Subsection (b) below, it being recognized that the character and type of such gatherings vary widely and the facilities required to carry out the general purpose and intent of this Section should be the subject of a Public Gathering Permit issued only after public hearing and a determination by the Village Board that there will be compliance with the standards set forth in this Section. Excepted are Village Board-approved community events.

(b) Scope. This Section shall apply to all public and private gatherings, rallies, assemblies or festivals at which attendance is greater than five hundred (500) persons for an event. The requirement for a Public Gathering Permit shall not apply to events held in any regularly established permanent place of worship, stadium, school, athletic field, arena or other similar permanently established structure designed for assemblies, for local civic, community or charitable events, or to church picnic events which do not exceed by more than two hundred fifty (250) people the maximum seating capacity of the structure where the assembly is held.

(c) Definitions. The following definitions shall be applicable in this Section:

(1) **Person.** Any individual, partnership, corporation, firm, organization, company, association, society or group.

(2) **Assembly.** A company of persons gathered together at any location at any single time for any purpose, and may be considered a large public gathering if it falls within the definition in Subsection (b) above.

(3) **Public Gathering.** Shall be as defined in Subsection (b) above.

(d) Permit Required. No person shall permit, maintain, promote, conduct, advertise, act as entrepreneur, undertake, organize, manage or sell or give away tickets to an actual or reasonably anticipated large gathering, whether on public or private property unless a Public Gathering Permit to hold the assembly has first been issued by the Village Board. A permit to hold an assembly issued to one person shall permit any person to engage in any lawful activity in connection with the holding of the licensed assembly.

(e) Application for Permit.

(1) **Applicant.** Applications for a Public Gathering Permit shall be made by the owner or a person having a contractual interest in lands proposed as the site for a public or private gathering, rally, assembly or festival as defined in this Section. The application shall contain a statement made upon oath or affirmation that the statements contained therein are true and correct to the best knowledge of the applicant and shall be signed and sworn to or affirmed by the individual making application in the case of an individual by all officers in the case of a corporation, by all partners in the case of a partnership or by all officers of an unincorporated association, organization, society or group or, if there be no officers, by all members of such association, organization, society or group.

(2) **Filing Period.** An application for a Public Gathering Permit shall be filed with the Clerk-

Treasurer not less than forty-five (45) days nor more than one hundred twenty (120) days before the date on which it is proposed to conduct the event.

- (f) Required Application Information.** The application for a Public Gathering Permit shall contain and disclose all of the following information:
- (1)** The name, residence and mailing address of all persons required to sign the application by Subsection (e)(1) above and, in the case of a corporation, a certified copy of the articles of incorporation together with the name, age, residence and mailing address of each person holding ten percent (10%) or more of the stock of such corporations.
 - (2)** The name and mailing address of the promoter and/or sponsor of the gathering.
 - (3)** The address and legal description of all property upon which the assembly is to be held, together with the name, residence and mailing address of the owner of record of all such property. This description shall be by plat of survey to a scale of one (1) inch equals one hundred (100) feet prepared by a registered land survey or showing the location, boundaries, dimensions, type, elevations and size of the following: subject site, existing or proposed wells, buildings, fences, woods, streams, lakes or water courses, as well as the vertical contour interval two (2) feet above the ordinary high-water
 - (4)** Proof of ownership of all property upon which the assembly is to be held or a statement made upon oath or affirmation by the record owner of all such property that the applicant has permission to use such property for an assembly of two hundred fifty (250) or more persons.
 - (5)** The nature or purpose of the assembly.
 - (6)** The total number of days and/or hours during which the assembly is to last.
 - (7)** The maximum number of persons which the applicant shall permit to assemble at any time, not to exceed the maximum number which can reasonably assemble at the location of the assembly, in consideration of the nature of the assembly, or the maximum number of persons allowed to sleep within the boundaries of the location of the assembly by the zoning ordinances of the Village if the assembly is to continue overnight.
 - (8)** The maximum number of tickets to be sold, if any.
 - (9)** The plans of the applicant to limit the maximum number of people permitted to assemble.
 - (10)** The plans for fencing the location of the assembly and the gates contained in such fence.
 - (11)** The plans for supplying potable water including the source, amount available and location of outlets.
 - (12)** The plans for providing toilet and lavatory facilities including the source, number and location, type and the means of disposing of waste deposited.
 - (13)** The plans for holding, collection and disposing of solid waste material.
 - (14)** The plans to provide for medical facilities including the location and construction of a medical structure, the names and addresses and hours of availability of physicians and nurses, and provisions for emergency ambulance service.
 - (15)** The plans, if any, to illuminate the location of the assembly including the source and amount of power and the location of lamps.
 - (16)** The plans for parking vehicles including size and location of lots, points of highway access and interior roads including routes between highway access and parking lots.
 - (17)** The plans for camping facilities, if any, including facilities available and their location.
 - (18)** The plans for security including the number of guards, their deployment, command arrangements, and their names, addresses, credentials and hours of availability.
 - (19)** The plans for fire protection including the number, type and location of all protective

- devices including alarms and extinguishers, and the number of emergency fire personnel available to operate the equipment.
- (20) The plans for sound control and sound amplification, if any, including number, location and power of amplifiers and speakers.
- (21) The plans for food concessions and concessionaires who will be allowed to operate on the grounds including the names and addresses of all concessionaires and their license or permit numbers.
- (22) The application shall include the bond required in Subsection (g) and the permit fee.
- (g) **Bond.** The Village Board shall have authority to require the applicant and site owners to file a cash bond or establish an escrow account in an amount to be determined by the Village Board, but not exceeding One Hundred Thousand Dollars (\$100,000.00), conditioned on complete compliance by the applicant and site owner with all provisions of this Section, the terms and conditions of the Public Gathering Permit, including cleaning up the site, and the payment of any damages, administrative and law enforcement costs, fines, forfeitures or penalties imposed by reason of violation thereof. Such bond or escrow account information shall be filed with the Clerk-Treasurer prior to the issuance of a permit.
- (h) **Charge for Increased Costs.** Where the Village Board determines that the cost of municipal services incident to the staging of the usage will be significantly increased because of the usage, the Village Board will require the permittee to make an additional payment based on the cost recovery formula found in the fee schedule in Title 1.
- (i) **Hearing; Determination.** Prior to considering an application for a Public Gathering Permit, the Village Board shall conduct a public hearing on the matter. Written notice of such hearing shall be mailed to the applicant and all property owners adjacent to the site of the proposed assembly. The Village Board shall, based on evidence presented at the hearing, make a finding of the number of persons expected to attend the event. Such finding shall be final and conclusive on the applicant for the purpose of determining the amount of the permit fee and the applicability of those standards set forth herein which are dependent upon the number of persons attending the event.
- (j) **Standards.** A Public Gathering Permit shall not be issued unless it is determined, based on evidence produced at the hearing or submitted with application materials, that the following standards are or will be met; the applicant may be required to file with the Clerk-Treasurer copies of properly executed contracts establishing the ability to fully provide the services required under this Section:
- (1) For events scheduled for two (2) successive days or more, at least one (1) acre of land, exclusive of roads, parking lots and required yards shall be provided for each one hundred (100) persons attending.
- (2) Every site proposed for a Public Gathering Permit shall be on generally well-drained ground and shall not be on ground on which storm or other waters accumulate or on ground which is wet or muddy due to subsoil moisture.
- (3) Due to the physical characteristics of the site, the Village Board may require that the applicant shall provide proof that he/she will furnish, at his own expense, a minimum of two (2) days before the assembly commences, a snow-fence type fence completely enclosing the proposed location of sufficient height and strength to prevent people in excess of the maximum permissible number from gaining access to the assembly grounds, which shall have at least four (4) gates, at least one (1) at or near four (4) opposite points of the compass.

- (4) The applicant shall provide proof that he/she has contracted for local EMS services to provide emergency ambulance and EMT services, at the applicant's expense, for events at which over one thousand (1,000) persons will be in attendance.
- (5) The applicant shall provide proof that he/she will furnish, at his/her own expense before the assembly commences if the assembly is to continue during, hours of darkness, illumination sufficient to light the entire area of the assembly at the rate of at least five (5) foot candles, but not to shine unreasonably beyond the boundaries of the enclosed location of the assembly.
- (6) The applicant shall provide proof that he/she will furnish, at his/her own expense before the assembly commences, a free parking area inside of the assembly grounds sufficient to provide parking space for the maximum number of people to be assembled at the rate of at least one (1) parking space for every four (4) persons.
- (7) The applicant shall provide proof that he/she will furnish at his/her own expense before the assembly commences, security guards, either regularly employed, duly sworn, off-duty Wisconsin peace officers or private guards licensed in Wisconsin, sufficient to provide adequate security for the maximum number of people to be assembled at the rate of at least one (1) security guard for every five hundred (500) people. If it is determined by the Village President that additional police protection shall be required, he/she may contact the County Sheriff Department; and all costs for the additional protection required shall be deducted from the posted cash bond.
- (8) The applicant shall provide proof that he/she will furnish, at his/her own expense before the assembly commences, fire protection including alarms, extinguishing devices and fire lanes and escapes, sufficient to meet all state and local standards for the location of the assembly as set forth in the Wisconsin Administrative Code and ordinances of the county and Village, and sufficient emergency personnel to efficiently operate the required equipment.
- (9) The applicant shall provide an adequate source of pure water with sufficient supply of outlets for drinking and other purposes to comfortably accommodate the number of persons expected to attend the event at the rate of one (1 gallon) per person per day. Where a public water supply is not available, potable water, meeting all federal and state requirements for purity, may be used. Any well or wells supplying any such site shall comply with the Wisconsin Administrative Code.
- (10) The applicant shall provide separate enclosed toilets for males and females, meeting all state and local specifications, conveniently located throughout the grounds, sufficient to provide facilities for the maximum number of people to be assembled at the rate of at least one (1) toilet for every one hundred (100) females and at least one (1) toilet for every two hundred (200) males together with an efficient, sanitary means of disposing of waste matter deposited, which is in compliance with all state and local laws and regulations, a lavatory with running water under pressure and a continuous supply of soap and paper towels shall be provided with each toilet.
- (11) The applicant shall provide a sanitary method of disposing of solid waste, in compliance with state and local laws and regulations, sufficient to dispose of the solid waste production of the maximum number of people to be assembled at the rate of at least two and one-half (2.5) pounds of solid waste per person per day, together with a plan for holding and a plan for collection of all such waste at least once each day of the assembly and sufficient trash cans with tight fitting lids and personnel to perform the task.

(12) If the assembly is to continue overnight, camping shall be provided in compliance with all state and local requirements as set forth in the Wisconsin Administrative Code and ordinances of the Village and county sufficient to provide camping accommodations for the maximum number of people to be assembled.

(k) Reasons for Denial. Applicants may be denied for any of the following non-exclusive reasons:

- (1) It is for a use which would involve a violation of federal or state law or any Village or county ordinance.
- (2) The granting of the permit would conflict with another permit already granted or for which application is already pending.
- (3) The application does not contain the information or does not properly satisfy the conditions required by this Section.
- (4) The application is made less than the required days in advance of the proposed assembly.
- (5) The policing of the assembly will require so large a number of persons and vehicles, including ambulances, as to prevent adequate service of the needs of the rest of the community.
- (6) The assembly will substantially hinder the movement of police and fire and other emergency vehicles as to create a substantial risk to persons and property.
- (7) The assembly will reasonably create a substantial risk of injury to persons or damage to property.
- (8) The assembly use is so poorly organized that participants are likely to engage in aggressive or destructive activity.

(l) Class B Fermented Malt Beverage Licenses. When fermented malt beverages are sold at any event authorized by this Section, a valid Temporary Fermented Malt Beverage license shall be obtained and applicable Village ordinances shall be fully complied with. Said license must be possessed by the person who filed for the license and shall be presented to any law enforcement officer upon request.

(m) Recommendations of Governmental Agencies. The Clerk-Treasurer may submit a copy of the application to the County Sheriff Department and other governmental agencies for their recommendations.

(n) Permit Revocation. Any law enforcement officer, the Clerk-Treasurer, or the Village Board may revoke a permit already issued if it is deemed that such action is justified by an actual or potential emergency due to weather, fire, riot, other catastrophe or likelihood of a breach of the peace or by a change in the conditions forming the basis of the standards of issuance. In lieu of revoking a permit, an above-named official may require the permittee to file evidence of good and sufficient sureties, insurance in force or other evidence of adequate financial responsibility to the Village and such third parties as may be injured or damaged, in an amount depending upon the likelihood of injury or damage as a direct and proximate result of the holding of the usage sufficient to indemnify the Village and such third parties as may be injured or damaged thereby, caused by the permittee, its agents or participants.

(o) Fees. The following fees shall be applicable under this Section:

- (1) Gatherings of Five Hundred (500) to Two Thousand Five Hundred (2,500). A fee as determined by Village Board.
- (2) Gatherings of Over Two Thousand Five Hundred (2,500). A fee of as determined by Village Board.

Title 7 4 Chapter 9

Pawnbrokers and Second Hand Article and Jewelry Dealers

7-9-1 Regulation of Pawnbrokers and Second Hand Article and Jewelry Dealers

Sec. 7-9-1 Regulation of Pawnbrokers and Second Hand Article and Jewelry Dealers.

- (a) **Statutory Authorization.** This Section is adopted pursuant to authorization in Sec. 134.71, Wis. Stats.
- (b) **Title.** This Section shall be known as the Pawnbrokers and Second Hand Article and Dealers Ordinance for the Village of Winneconne.
- (c) **Terms.** All of the terms of Sec. 134.71, Wis. Stats., except as otherwise provided herein are expressly incorporated herein and made a part of this Section.
- (d) **License Application.** As an additional requirement to obtain a license from the Village to operate as a pawnbroker, second hand article dealer or second hand jewelry dealer, the applicant shall provide a photograph of the applicant. The photograph shall be kept on file with the Clerk-Treasurer. In the event an applicant is more than one person or is a corporation, a photograph of each and every person who is applying or all shareholders, officers and directors of the corporation shall be provided to the Village. Additionally, all employees of the applicant shall be photographed and such photographs provided to the Village Clerk-Treasurer. This is a continuing obligation, in other words, at the time that the licensed pawnbroker or second hand business has any new or additional owner, agent, officer, director or employee, the dealer shall provide a photograph of the new or additional party to the Village Clerk-Treasurer. A fee shall be charged as determined by Village Board.
- (e) **Penalties.** The penalties of Sec. 134.71, Wis. Stats., are also incorporated herein, except that the Village of Winneconne shall be entitled to collect such penalties as an ordinance forfeiture herein. Additionally, the failure of a dealer or its owners, officers, directors or employees to comply with the photograph requirements set forth above shall constitute a violation of this Section and subject said persons to the same penalties as otherwise provided in this Section.

State Law Reference: Sec. 134.71, Wis. Stats.

Title 7 4 Chapter 10

Massage Therapists and Bodyworkers

7-10-1 Registry of Massage Therapists and Bodyworkers.

Sec. 7-10-1 Registry of Massage Therapists and Bodyworkers.

- (a) **Purpose.** 1997 Wisconsin Act 156 created Subchapter XI (as renumbered by the revisor) of Ch. 440 (as renumbered by the revisor), Wis. Stats., providing for the registration and regulation of massage therapists and bodyworkers, effective February 1, 1999. The Village Board having reviewed such registration and regulation requirements and having determined the same to be reasonable minimum requirements for any person to engage in the practice of massage therapy or bodywork within the Village of Winneconne.
- (b) **Registry of Massage Therapists and Bodyworkers Required.** No person or entity shall engage in the practice of massage therapy or bodywork or perform massage therapy or bodywork for gain, unless such person has previously been issued and holds a valid license of registration under Subchapter XI of Ch. 440, Wis. Stats., as amended.

State Law Reference: Subchapter XI of Ch. 440, Wis. Stats.

Title 7 4 Chapter 11

Use of Explosives; Blasting Activities

- 7-11-1 Authority and Purpose
- 7-11-2 Definitions
- 7-11-3 Regulation of Explosive Materials and Blasting
- 7-11-4 Temporary Permits
- 7-11-5 Regulation of Blasting Resultants
- 7-11-6 Applicability
- 7-11-7 Violations and Penalties

Sec. 7-11-1 Authority and Purpose.

- (a) **Authority.** This Chapter is adopted pursuant to the police powers granted to the Village under Chapter 61, Wis. Stats.
- (b) **Purpose.** The purpose of this Chapter is to:
- (1) Protect the health, welfare and safety of Village residents;
 - (2) Protect public and private property located within the Village;
 - (3) Regulate the use of explosive materials and establish uniform limits on the permissible levels of blasting resultants to reasonably assure that blasting resultants do not cause injury, damage or nuisance to persons or property.

Sec. 7-11-2 Definitions.

- (a) The following definitions shall apply in this Chapter. Terms not herein defined shall be understood to have their usual and ordinary dictionary meaning:
- (1) **Airblast.** An airborne shock wave resulting from the detonation of explosives.
 - (2) **Approves.** Approval granted by the Village of Winneconne.
 - (3) **Blaster.** Any individual holding a valid blaster's license issued by the Wisconsin Department of Commerce or other appropriate state agencies.
 - (4) **Blasting.** Any method of loosening, moving or shattering means of solid matter by use of an explosive.
 - (5) **Blasting Operation.** Any operation, enterprise or activity involving the use of blasting.
 - (6) **Blasting Resultants.** The physical manifestations of forces released by blasting, including, but not limited to, projectile matter, vibration and concussion, which might cause injury, damage or unreasonable nuisance to persons or property located outside the controlled blasting site area.
 - (7) **Community.** A built-up inhabited area.
 - (8) **Permitted Explosives Use Area.** The area that surrounds a blasting site and:
 - a Is owned by the operator; or
 - b With respect to which, because of property ownership, employment, relationship or agreement with the property owner, the operator can take reasonably adequate measures to exclude or to assure the safety of persons and property.
 - (9) **Detonator.** Any device containing a detonating charge that is used for initiating detonation in an explosive. The term includes, but is not limited to, electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses, detonating, cord delay connectors, and non-electric instantaneous and delay blasting caps.
 - (10) **Department.** The Wisconsin Department of Commerce or other appropriate state agencies.
 - (11) **Electric Blasting Cap.** A blasting cap designed for, and capable of, initiation by means of an electric current.
 - (12) **Explosion.** The substantially instantaneous release of both gas and heat.
 - (13) **Explosive.** Any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion unless the compound, mixture or device is otherwise classified by the Department by rule.
 - (14) **Explosive Materials.** Explosives, blasting agents and detonators. The term includes, but is not limited to, dynamite and other high explosives, slurries, emulsions, water gels,

blasting agents, black power, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord and igniters.

- (15) **Flyrock.** Rock that is propelled through the air from a blast.
- (16) **Ground Vibration.** A shaking, of the ground caused by the elastic wave emanating from a blast.
- (17) **Highway.** Any public street, public alley or public road.
- (18) **Inhabited Building.** A building regularly occupied in whole or in part as a habitation for human beings, or any church, schoolhouse, railroad station, store or other structure where people are accustomed to assemble, except any building or structure occupied in connection with the manufacture, transportation, storage or use of explosive materials.
- (19) **Particle Velocity.** Any measure of ground vibration describing the velocity at which a particle of ground vibrates when excited by a seismic wave.
- (20) **Person.** Any individual, corporation, company, association, firm, partnership, society or joint stock company.
- (21) **Powder Factor.** Any ratio between the amount of powder loaded and the amount of rock broken.
- (22) **Primer.** A capped fuse, electric detonator or any other detonating device inserted in or attached to a cartridge of explosive.
- (23) **Stemming.** The inert material, such as drill cutting, used in the collar portion or elsewhere of a blast hole to confine the gaseous products of detonation.
- (24) **Nuisance.** An injurious effect on the safety, health, or morals of the public, or use of property which works some substantial annoyance, inconvenience, or injury to the public and which causes hurt, inconvenience, or damage.
- (25) **Village.** The Village of Winneconne, Winnebago County, Wisconsin.

Sec. 7-11-3 Regulation of Explosive Materials and Blasting.

(a) General.

- (1) **General Permit(s) Required.** No person shall handle or use explosive materials in the Village of Winneconne unless he/she:
 - a Possesses a valid State of Wisconsin blaster's license with the proper classification or is supervised by a holder of a valid State of Wisconsin blaster's license with the proper classification; and
- (2) **Firearms Exception.** For purposes of this Chapter, blasting does not include the discharge of firearms for hunting.

(b) Village Permit Requirements. No person shall handle, use or cause explosives to be detonated within the Village of Winneconne without an explosives use permit issued by the Village of Winneconne, as hereafter set forth, to such person, his/her supervisor or employer:

- (1) **Application.** Applications for an explosives use permit shall be in writing upon forms provided by the Village Clerk-Treasurer. Applications shall be accompanied by a permit fee in accordance with the Village Board's current fee schedule as determined by Village Board. Permits shall be issued on an annual basis commencing January 1 and ending on December 31. Applications may be made by and permits issued to the blasting business, provided that the person doing the blasting or responsible for such blasting shall hold a valid Wisconsin blaster's license with proper classification. The application will identify the licensed blasters operating under the permit and the blasting locations within the

Village of Winneconne.

- (2) **Financial Assurance.** Each application for an explosives use permit as herein stated, or a renewal thereof, shall be accompanied by a certificate of insurance evidencing comprehensive general public liability insurance against claims for bodily injury, death, or property damage arising out of the blasting operation; such insurance to afford protection to the Village of Winneconne and its residents of not less than One Million Dollars (\$1,000,000) with respect to bodily injury or death to any one (1) person, not less than Three Million Dollars (\$3,000,000) with respect to any one (1) accident, and not less than One Hundred Thousand Dollars (\$100,000) with respect to property damage. The certificate of insurance shall name the Village of Winneconne and its residents as additional insured under the relevant policy. Any insurance which the blaster is obligated to carry under the terms of this Chapter may be carried under so-called "blanket" policies covering other properties or liabilities of the blaster, provided, that such blanket policies otherwise comply with the provisions of this Subsection. Each insurance policy shall provide that it shall not be cancelled by the insurance company, except after not less than ninety (90) days' notice to the Village, in writing, by registered or certified mail. Not less than thirty (30) days prior to the expiration of the ninety (90) day notice of cancellation, the blaster must deliver to the Village a replacement insurance policy in absence of which all blasting shall cease. The liability insurance must be issued by a company licensed by the State of Wisconsin to issue the policy. The Village Board reserves the right to increase the amount of the insurance policy depending on the circumstances of the blasting activity.
- (3) **Explosives Use Plan.** Each application for an explosives use permit or a renewal thereof shall include a written description of the total area within which explosives are proposed to be used, blasting procedures to be employed, including types of explosives, initiating systems, and an aerial photograph or drawing acceptable to the Village Board with a scale of no less than one (1) inch equals one hundred (100) feet and having an overlaying grid of fifty (50) feet by fifty (50) feet which accurately includes all areas and inhabited buildings within five hundred (500) feet of all proposed blasting areas.
- (4) **Hours of Operation.** Blasting shall only be conducted between 9:00 a.m. and 4:00 p.m. on Monday through Friday, provided, however, that in the event an emergency has delayed a blast beyond 4:00 p.m., a loaded hole may be blown within a reasonable time thereafter. Blasting shall not be conducted at other times or on Sundays or legal holidays without written permission from the Village Board or its designee, which shall only be granted upon a showing of extreme need.
- (5) **Blasting Log.** An accurate blasting log shall be prepared and maintained for each blast fired, and a true and complete copy of said log shall be supplied to the Village Clerk-Treasurer within seven (7) working days of the initiation of the blast. The Village may require that the permittee furnish to the Village an analysis of any particular blasting log to be prepared by the permittee. In the event the permittee cannot or will not prepare a reliable analysis, the Village may obtain such analysis from an independent expert. The permittee shall be liable for the reasonable cost of such analysis if it is determined after an opportunity to be heard that this requirement was violated by the permittee. Each blasting log shall include, but not be restricted to, the following information:

 - a Name and license number of blaster in charge of blast;
 - b Blast location with grid coordinate references to the supplied aerial photograph or

- drawing of the explosives use area;
- c** Date and time of blast;
- d** Weather conditions at time of blast;
- e** Diagram and cross-section of blast hole layout;
- f** Number of blast holes;
- g** Blast hole depth and diameter;
- h** Spacing and burden of blast holes;
- i** Maximum holes per delay;
- j** Maximum pounds of explosives per delay;
- k** Depth and type of stemming used;
- l** Total pounds of explosives used, including primers and initiating, cord;
- m** Distance to nearest inhabited building not owned by permittee;
- n** Type of initiation system used;
- o** Seismographic and airblast information, which shall include:
 1. Type of instrument and last calibration date;
 2. Exact location of instrument and date, time and distance from the blast;
 3. Name and company affiliation of person taking reading;
 4. Name of the person and firm analyzing the seismographic and airblast data when required;
 5. Vibrations and airblast levels recorded; and
 6. Copy of the seismograph printout.

Sec. 7-11-4 Temporary Permits.

- (a) Temporary Permit Requirements.** The Village Clerk-Treasurer, upon the concurrence of the Chief of Police, upon receipt of a properly completed temporary permit application form, may issue a temporary permit to allow for special construction or demolition activities requiring the use of explosives. Temporary permits shall be issued for a duration of fourteen (14) consecutive working days. The Village Board, in its discretion, may grant one (1) fourteen (14) day extension. Only one (1) temporary permit [and one (1) renewal] can be issued for any given site within the year of permit issuance. Applicants for temporary permits are required to provide financial assurance as specified in Section 7-114(b) and provide notice to all neighbors within five hundred (500) feet of the special construction or demolition activity.
- (b) Temporary Permit Categories.** Permits shall be in the following categories:
- (1) Road, Sewer, Heavy Construction.** The fee shall be as determined by Village Board, based on the explosive use plan submitted by contractor or blaster.
 - (2) Construction Authorized by Village Board.** Construction authorized by the Village Board for Village use is exempt from the fee. Applicants for these permits are required to file financial assurances as specified in Section 7-11-3(b) and provide notice to all neighbors within five hundred (500) feet.
 - (3) Construction.** This category includes home building, septic systems, swimming pools, etc. The fee is included in the building permit. If blasting becomes necessary after the issuance of a building permit, a fee in accordance with the Village Board's current fee schedule will be assessed for the blasting permit. No bond is required. However, proof of insurance and notice to all neighbors within five hundred (500) feet is required.

- (4) **Agricultural.** This category includes stump removal, silo demolition, manure pits, etc. The fee shall be a fee in accordance with the Village Board's current fee schedule for the permit. No bond is required. However, proof of insurance and notice to all neighbors within five hundred (500) feet is required.

Sec. 7-11-5 Regulation of Blasting Resultants.

- (a) **Purpose of Section.** It is the purpose of this Section to provide for the establishment of uniform limits on permissible levels of blasting resultants to reasonably assure that blasting within the Village does not cause injury, damage or a nuisance to persons or property outside and beyond the permitted explosives use area.
- (b) **Instrumentation.** All blast-monitoring instruments used to produce data to support compliance with this Subsection shall meet the following minimum specifications:
- (1) **Seismic frequency range.** Two (2) to two hundred (200) Hz (± 3 Hz).
 - (2) **Acoustic frequency range.** Two (2) to two hundred (230) Hz (+ 1 dB).
 - (3) **Velocity range.** 0.02 to four (4.0) inches per second.
 - (4) **Sound range.** One hundred (100) to one hundred forty (140) dB linear.
 - (5) **Transducers.** Three (3) mutually perpendicular axes.
 - (6) **Recording.** Provide time-history of wave form.
 - (7) **Printout.** Direct printout showing time, date, peak air pressure, peak particle velocity and frequency in three (3) directions and a printed waveform graph of the event depicting measured air blast and particle velocity in the three (3) directions.
 - (8) **Calibration.** At least once every twelve (12) months according to manufacturer's recommendations.
- (b) **Control of Adverse Effects Generally.** The permittee shall take necessary steps determined by the Village to control adverse effects from his/her activity.
- (c) **General Requirements.** Blasting shall be conducted so as to prevent injury and unreasonable annoyance to persons and damage to public or private property outside the permitted explosives use area.
- (d) **Airblast.**
- (1) **Limits.** Ah-blast shall not exceed the maximum limits listed in Table A-1 at the location of any dwelling, public building, place of employment, school, church or community or institutional building outside and beyond the permitted explosives use area. Notwithstanding this general requirement an annual permit holder subject to this limitation may exceed the limitation on up to five percent (5%) of the blasts it initiates during the period from January 1 to December 31 without violating this Chapter, provided that the airblast produced by such blasts does not exceed the limitations on airblast imposed by the Wisconsin Department of Commerce in Subsection COMM 7.64(2), Wis. Adm. Code, as amended from time to time.

TABLE A-1

AIRBLAST LIMITS

Lower Frequency Limit of Measuring System in Hz (e) Maximum Level in db

2 Hz or lower — Flat response
6 Hz or lower — Flat response

(f) 123 peak
(g) 129 peak

(1) Monitoring.

- a The permittee shall monitor all blasts at the closest location to the blast of any dwelling, public building, place of employment, school, church or community or institutional building outside and beyond the permittee explosives use area, provided, however, that the permittee may monitor, at another location, approximately the same distance from the blast site, if the permittee is unable to obtain permission to conduct the monitoring from the owner of the preferred location. The Village Board or its designee may, at its discretion, require the relocation of monitoring equipment to a more suitable site and/or may conduct independent air-blast monitoring to spot-check data supplied by the permittee. If independent monitoring by the Village after hearing, discloses that this Chapter was violated by the permittee, then in that event, the permittee shall pay the reasonable costs incurred by the Village for the independent monitoring. Upon receiving and approving billings for such expenses, the Village shall cause notice of the expenses to be mailed to the permittee, who shall reimburse the Village for such expenses within thirty (30) days after receipt of such notice.
 - b The measuring equipment used shall have an upper end flat frequency response of at least two hundred (200) Hz.
 - c All measuring equipment during, monitoring shall be spiked to the ground or sandbagged.
- (f) Flyrock.** Flyrock produced as a result of explosives use shall be totally contained within the permitted explosives use area.

(g) Ground Vibration.

(1) General.

- a The maximum ground vibration at the location of any dwelling, public building, place of employment, school, church or community or institutional building outside or beyond the permitted explosives use area shall have a maximum peak particle-velocity limit as provided by the Department, the scaled-distance equation provided by the Department, or the blasting level chart provided by the Department, whichever is applicable hereunder.
- b All structures in the vicinity of the permitted explosives use area, not listed in Subsection (g)(1), such as water towers, pipelines and other utilities, tunnels, dams, impoundments and underground mines shall be protected from damage by establishment by the permit holder of a maximum allowable limit on the ground vibration. The permit holder shall establish the limit after consulting with the owner of the structure.

(2) Seismic Monitoring.

- a The Village Board, in its discretion, may conduct independent seismic blast monitoring to spot-check data supplied by the permit holder. If the independent monitoring was done after good cause was shown therefor and after the permittee was given notice and an opportunity to be heard on the matter, the permittee shall be liable to the Village for all expenses incurred by the Village as a result of such independent monitoring. Upon receiving and approving billings for such expenses, the Village

shall cause notice of the expenses to be mailed to the permittee, who shall reimburse the Village for such expenses within thirty (30) days after receipt of such notice.

- b** The Village Board, upon good cause shown and after giving the permittee notice and an opportunity to be heard, may request analysis of records and data for any or all blasts which occurred within the permitted explosives use area.

(3) Preblasting Notification.

- a** Each explosives use permit application and all reapplications shall include the names and addresses of all residents or owners of dwellings or other structures located within an area affected by the permitted explosives use. The affected area shall be determined based on the maximum pounds of explosive per eight (8) MS delay from the previous three (3) years' high. This calculation's square root x one hundred (100) shall determine the affected in area in feet. This calculation shall be the maximum distance from the boundary of the quarry where a preblast survey may be requested. One thousand (1,000) feet shall be the minimum distance for which a preblast survey may be requested regardless of the above calculation. Residents outside of these boundaries may petition the Village Board for a preblast survey, with the survey to be at the quarry operator's expense. Residents denied this preblast survey may, at their own expense, secure a survey by a company acceptable to the quarry operator. The quarry operator may not unreasonably reject the company proposed to perform the survey. The surveys performed in this paragraph will serve as the basis for damage claims against the quarry operator. The blasting logs used to determine the previous three (3) years' high, as referenced in this Subsection. are available for inspection from the Village Clerk-Treasurer. [See Section 5)].
- b** At the time of permit application, the applicant shall have notified, in writing, all residents or owners of dwellings or other structures located within the affected area, previously defined in Subsection (2)(3)a immediately above, who may request a preblast survey. All preblast surveys shall include a water quality test for existing wells. The applicant shall cause a preblast survey to be conducted as to such dwellings or structures, and extensive water quality testing. for existing wells, provided, however, that the applicant shall not be required to conduct a preblast survey more than once every six (6) years and a well water quality test more than once every four (4) years. The applicant or permittee are responsible for the costs of all requested preblast surveys and water quality tests.
- c** The survey shall include a written report signed by the person who conducted the survey. Copies of the survey report shall be promptly provided to the Village Clerk-Treasurer, the owner or resident. and the applicant/permittee. The owner, resident or applicant/permittee shall promptly submit in writing to the Village any objections to the survey report, setting forth in detail such objections.
- d** The owner of a dwelling or structure that is within the affected area defined in Subsection (3)(a) above, who subsequent to the preblast survey has substantially modified or improved the dwelling or structure by fifty percent (50%) or more of the fair market value may request a new preblast survey. If it is found that a preblast survey is appropriate, the permittee may conduct such surveys within a reasonable period of time, but not exceeding twice a year for all such requests by all owners. These updated surveys shall be requested in writing, submitted to the Village Board, which shall promptly notify the permittee of the request.

- e All expenses incurred as a result of such independent surveys shall be the responsibility of the applicant/permittee. Upon receiving and approving billings for such expenses, the Village shall cause notice of the expenses to be mailed to the applicant/permittee, who shall reimburse the Village for such expenses within thirty (30) days after receipt of such notice.

Sec. 7-11-6 Applicability.

- (a) **Effective Date.** All use of explosives and blasting activity conducted in the Village shall be subject to the provisions of this Chapter. Existing operations of whatever nature, including without limitation nonmetallic mining operations, shall comply with the terms of this Chapter.
- (b) **Other Ordinances.** Where the provisions of this Chapter conflict with any provisions of any other Village Ordinance, the provisions of this Chapter, if more restrictive than those of the other ordinances, shall control and shall supersede the provisions of the other ordinances.
- (c) **State and Federal Laws.** Where the provisions of this Chapter conflict with the provisions of any applicable State or Federal law or regulation, the provisions of the most restrictive Ordinance, Statute or Regulation shall control to the extent permitted by State and Federal law.

Sec. 7-11-7 Violations and Penalties.

(a) Enforcement Provisions.

- (1) **Enforcement.** The following are criteria that the Village Board may consider for issuance, re-issuance, suspension or revocation of a blasting permit:
 - a Compliance with the blasting standards established by the Village of Winneconne as noted herein by this Chapter.
 - b Development and submittal to the Village Board the explosives use plan and fails upon operation to comply with the plan.
 - c Development and submittal to the Village Board of the Village of Winneconne the blasting log and fails upon operation to comply with the information called for by the blasting log.
 - d Maintaining the financial assurance requested by the Village Board.
 - e Compliance with the operational hours for blasting as noted herein by this Chapter.
 - f Compliance with air blast and ground vibration standards established by the Village of Winneconne as noted herein by this Chapter.
 - g Compliance with the pre-blasting notification requirements to residents and the Village Board as noted herein by this Chapter.
 - h Attempts made by the permittee or party in interest to comply with the provisions of this Chapter.
 - i Consideration of atmospheric, unknown conditions including geophysical conditions, and other matters beyond the control of the permittee or party in interest.
- (2) **Suspension/Revocation.**
 - a Unless expressly provided herein or by other Village of Winneconne ordinance provisions, the explosive use permit may be suspended or revoked for cause for substantial noncompliance with this Chapter after the proper Village of Winneconne

hearing noted below, unless in an emergency condition determined by a designated member of the Village Board and either the Village Clerk-Treasurer, Fire Inspector or the permit issuer of the Village of Winneconne wherein the license, registration or permit can be suspended temporarily for a set time period. Prior to any action for suspension or revocation, the Village Board must, by the Village Clerk-Treasurer, receive a verified complaint concerning the licensee, registrant or permittee. The following persons may file a verified complaint with the Village Board of the Village of Winneconne:

1. The Village President.
 2. The Village Clerk-Treasurer.
 3. The Village Board.
 4. The Village Zoning Administrator/Building Inspector.
 5. Any law enforcement officer.
 6. Any Village of Winneconne resident.
 7. A landowner within one thousand (1,000) feet of the blasting site.
- b** The Village Board will make a determination if the allegations of the complaint are of sufficient magnitude, importance, or otherwise of such a nature as to required a formal evidentiary hearing.
- c** The person subject to charges for violation of any Village of Winneconne ordinance or any violation of a condition of the explosives use permit shall be provided a copy of the verified complaint and notice of hearing before the Village Board. The hearing shall be required to be not less than ten (10) days nor more than thirty (30) days after the receipt of notice, unless stipulated in writing by the Village Board and the person subject to charges.
- d** The person subject to charges for violation of any Village of Winneconne ordinance or any violation of a condition of the explosive use permit shall be entitled to the following:
1. Representation by legal counsel.
 2. Right to present and cross examine witnesses.
 3. Right to subpoena witnesses by the Village President issuing subpoenas to compel attendance of witnesses.
- e** The Village Board may, after the hearing for any person previously issued an explosive use permit by the Village Board act as follows:
1. Revoke the permit as a final decision.
 2. Suspend the permit for a date certain as a final decision.
 3. Request additional information as an interim decision prior to taking future action.
 4. Take no action on the permit as a final decision.
- f** The final decision of the Village Board to revoke or suspend the explosives use permit shall be subject to appeal to the Circuit Court.
- (b) Penalties for Violations.** In addition to the denial, suspension or revocation of a permit issued under this Chapter, any person who shall violate any provision of this Chapter or who shall fail to obtain a permit as required hereunder shall upon conviction of such violation, be subject to a penalty of a civil forfeiture as determined in Section 1-1-6 of this Code of Ordinances, together with the costs of prosecution. Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Chapter shall preclude the Village from maintaining any appropriate action to prevent or remove a violation of any

provision of this Chapter. Any default of such forfeiture determined by a Court of competent jurisdiction shall be subject to any penalties as provided by Sections 66.0109, 66.0113, 66.0115 and 66.0114, Wis. Stats., as may be amended.

Title 7 4 Chapter 12

Regulation and Licensing of Amusement Arcades

- 7-12-1 Definitions
- 7-12-2 Amusement Arcade License
- 7-12-3 Hours of Operation for Amusement Arcades
- 7-12-4 General Requirements for Amusement Arcades
- 7-12-5 License Revocation

Sec. 7-12-1 Definitions.

The following definitions shall be applicable in this Chapter:

- (a) **Amusement Arcade.** Any premises operated by any organization, whether incorporated or not, which is the owner, lessee, or occupant of a building whose primary purpose or object of its existence or operation is that of providing use of "amusement devices" to the public at retail, and/or any premises operated by any organization, whether incorporated or not, which is the owner, lessee or occupant of a building, the majority of whose gross receipts are derived from the providing of use of "amusement devices" to the public at retail.
- (b) **Amusement Device.** Any table, platform, mechanical device, or apparatus operated or intended to be operated for amusement, pleasure, test of skill, competition, or sport, the use or operation of which is conditioned upon payment or consideration either by insertion of coin or token in a slot or otherwise. Such amusement device shall include, but not be limited to, devices commonly known as baseball, football, basketball, hockey, pinball, shuffleboard, ray guns, bowling games, bumper games, skiball, electronic video games, and shall also include billiard tables and pool tables (whether coin operated or not). Such definition does not include a bowling alley, juke box or other coin operated music machine or a mechanical children's amusement riding device.

Sec. 7-12-2 Amusement Arcade License.

- (a) **License Required.** No person, firm, or corporation shall operate or keep an amusement parlor or arcade, as defined herein, without having obtained and posted on the premises, in plain view, a license to operate such parlor. Application shall be made to the Village Clerk-Treasurer on the form provided by such office accompanied by an application fee as determined by Village Board, which shall cover the cost of processing the application and shall be nonrefundable. The application shall set forth the following information:
 - (1) The name and address of the applicant or, if a partnership, the name and addresses of all the partners, or, if a corporation, the names and addresses of the principal officers and registered agent thereof, and the name and address of the person who will supervise the game room.
 - (2) The name and addresses of the owners of the amusement devices to be located on the licensed premises, if such owners are different from that of the applicant. If the owners of the amusement devices is a partnership, the names and addresses of all the partners, or if a corporation, the names and addresses of the principal officers and registered agent thereof.
 - (3) A building plan of the premises to be licensed specifically describing and otherwise showing all dimensions, indicating the intended division of floor space, exits and entrances, the areas to be used for amusement devices, and the common aisles.
 - (4) A site plan of the premises to be licensed which shall include the proposed landscaping for the subject premises, and all the improvements, parking and driveway areas, and landscaping located on property adjacent to and within twenty (20) feet of the property lines of the premises to be licensed.
 - (5) If the applicant operates other game rooms in other areas, the names and addresses of such other licensed establishments.
 - (6) Such application shall also contain such additional information as the Village deems

- necessary to assist it in determining the qualifications of the applicant for such license.
- (b) Public Hearing.** The application shall be forwarded to the Village Board which shall hold a public hearing prior to the granting or denial of any amusement arcade license. In reviewing each application, the Village Board shall find:
- (1)** That the establishment, maintenance, or operation of an amusement arcade at the location requested will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.
 - (2)** That the proposed amusement arcade will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
 - (3)** That the establishment of the amusement arcade will not impede the normal orderly development and improvement of the surrounding property for uses permitted in the district.
 - (4)** That adequate measures have been or will be taken to maintain good order surrounding the location thereof.
- (c) Issuance of License; Term.** The Village Clerk-Treasurer shall issue a license upon approval of the application by the Village Board, upon the payment by the applicant of an annual license fee of as determined by Village Board. All licenses issued herein shall be for one (1) year ending on the 30th day of June and shall not be transferable.

Sec. 7-12-3 Hours of Operation for Amusement Arcades.

- (a)** No premises for which an amusement arcade license has been issued shall be permitted to remain open for the offering of electronic amusement devices to the public at retail between the hours of 10:00 p.m. and 10:00 a.m.
- (b)** No premises for which an amusement arcade license has been issued and which is less than one thousand (1,000) feet from the main entrance of any established public or parochial school, shall be permitted to remain open for the offering of amusement devices to the public at retail between the hours of 10:00 p.m. and 3:00 p.m. on any day in which such school is in regular session.
- (c)** For the purpose of this Section, the term "public school or parochial school" shall be any institution providing learning facilities for grades kindergarten through eight (K-8). The one thousand (1,000) foot distance shall be measured by the shortest route along the highway from the closest point of the main entrance of such school to the main entrance of such premises.

Sec. 7-12-4 General Requirements for Amusement Arcades.

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

- (a)** All amusement arcades shall have an adult supervisor on the premises at all times in which the game room is open to the public.
- (b)** Every amusement arcade shall provide an adequate area and number of bicycle racks for the orderly parking of bicycles, which area shall be separate from a required vehicle parking stall and shall be so located as to not occupy any portion of a public sidewalk or to otherwise obstruct pedestrian passage to and from the premises.

- (c) Game rooms licensed herein shall comply with all other building, fire code, and applicable Village laws and regulations.

Sec. 7-12-5 License Revocation.

Licenses may be revoked by the Village Board after a hearing, in the event an amusement arcade's location or operation fails to conform to standards provided in this Chapter, or violates any other provision of this Code of Ordinances.

Title 7 4 Chapter 13 (Reserved for Future Use)

Title 7 4 Chapter 14

Licenses to Pay Local Claims; Appellate Procedures

- 7-14-1** Licenses Required to Pay Local Taxes, Assessments and Claims; Appellate Procedures
- 7-14-2** Issuance of Licenses

Sec. 7-14-1 Licensees Required to Pay Local Taxes, Assessments and Claims.

- (a) **Nonpayment of Taxes or Forfeitures.** The Village shall not issue or renew any license to transact any business within the Village of Winneconne:
- (1) For any purposes for which taxes, assessments or other claims of the Village are delinquent and unpaid.
 - (2) For any person who is delinquent in payment:
 - a Of any taxes, assessments or other claims owed the Village; or
 - b Of any forfeiture resulting from a violation of any Village Ordinance.
- (b) **Applicability.** This Section shall apply to licenses issued pursuant to the provisions of Title 7 of this Code of Ordinances, except Chapters 1 and 5.
- (c) **Denial of Renewal.** An application for renewal of a license subject to this Chapter shall be denied pursuant to the provisions of Subsection (a) only following notice and opportunity for hearing as provided by Subsection (d) below.
- (d) **Hearing.** Prior to any denial of an application for renewal of a license, including denials pursuant to Subsection (a), the applicant shall be given notice and opportunity for a hearing as hereinafter provided:
- (1) With respect to licenses renewable under Chapter 2 of Title 7 of this Code of Ordinances, notice and opportunity for hearing shall be as provided by Sec. 125.12. Wis. Stats., as amended from time to time.
 - (2) With respect to licenses other than those described in Subsection (a) herein, the Village Board or its assignee shall notify the applicant in writing of the Village's intention not to renew the license and shall provide the applicant with an opportunity for hearing. The notice shall state the reasons for the intended action and shall establish a date, not less than three (3) days nor more than ten (10) days after the date of the notice on which the applicant shall appear before the Village Board. If the applicant shall fail to appear before the Board on the date indicated on the notice, the Board shall deny the application for renewal. If the applicant appears before the Board on the date indicated in the notice and denies that the reasons for non-renewal exist, the Village Board shall conduct a hearing with respect to the matter. At the hearing, both the Village and the applicant may produce witnesses, cross examine witnesses and be represented by counsel. The applicant shall, upon request, be provided a written transcript of the hearing at the applicant's expense. If the Village Board determines the applicant shall not be entitled to renewal pursuant to Subsection (a), the application for renewal shall be denied.
- (e) **Other Grounds for Hearing.** Where an individual, business or corporation wishes to appeal the Village Clerk-Treasurer's decision not to issue a license or permit under this Title on grounds other than those specified in Subsections (a) through (d) above, the applicant may file a request in writing with the Village Clerk-Treasurer that the matter be referred to the Village Board. A public hearing shall be scheduled within fourteen (14) calendar days by the Village Board. All parties may be represented by counsel. The Board shall consider all relevant information and shall render a decision which shall be binding.

State Law Reference: Sec. 66.0115, Wis. Stats.

Sec. 7-14-2 Issuance of Licenses.

- (a) **Application.** Applications for licenses under this Title shall be made to the Village Clerk-Treasurer on a form furnished by the Village. Such application shall contain such information as may be required by the provisions of this Chapter or as may be otherwise required by the Village Board.
- (b) **Payment of License Fee.** License fees imposed under this Title shall accompany the license application. If a license is granted, the Village Clerk-Treasurer shall issue the applicant a receipt for his/her license fee.
- (c) **Refund of License Fee.** No fee paid shall be refunded unless the license is denied.
- (d) **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 on midnight of the last effective day of the license, or unless otherwise provided by these Ordinances or State laws.
- (e) **Form of License.** All licenses issued hereunder shall show the date of issue, the activity licensed, and the term of the license, and shall be signed by the Village Clerk-Treasurer and be impressed with the Village Seal, if any.
- (f) **Record of Licenses.** The Village Clerk-Treasurer shall keep a record of all licenses issued.
- (g) **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.
- (h) **Compliance With Ordinances Required.** It shall be a condition of holding a license under this Title that the Licensee comply with all ordinances of the Village. Failure to do so shall be cause for revocation of the license.
- (i) **Transfer of Licenses.** All licenses issued hereunder shall be personal to whom issued and shall not be transferred except with the consent of the Board.
- (j) **Consent to Inspection.** An applicant for a license under this Chapter thereby consents to the entry of police or authorized representatives of the Village upon 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 Title all things found therein in violation of this Chapter or State law.