

## CHAPTER 8 BUSINESSES AND BUSINESS REGULATIONS

### ARTICLE I. IN GENERAL

#### Sec. 8-1. Definitions.

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

*Licensed establishment* means any establishment licensed by the village board to sell alcohol beverages pursuant to Wis. Stats. ch. 125.

*Licensee* means the holder of a retail "Class A," "Class B," "Class "A," Class "B," or "Class C" licensee granted by the village board of the village pursuant to Wis. Stats. ch. 125.

(Ord. No. 05-110, § 6, 8-11-2005)

#### Sec. 8-2. Penalties.

- (a) The penalty for each violation shall be determined by said village board taking into account the number of past and present violations proven, and the severity of the current offense.
- (b) Any person who is found to have violated this chapter shall be punished according to the general penalties described in section 1-7. A conviction may constitute cause for suspension or revocation of license, or such lesser penalty as the village board may lawfully determine to be appropriate.
- (c) Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one day shall be considered a separate offense.

(Ord. No. 05-110, § 7, 8-11-2005)

#### Secs. 8-3—8-22. Reserved.

### ARTICLE II. REGULATION OF ADULT ENTERTAINMENT ESTABLISHMENTS<sup>1</sup>

#### Sec. 8-23. Licensing.

This article is enacted pursuant to licensing powers ~~granted~~granted by the village, and is intended to be used in disciplinary proceedings.

(Ord. No. 05-110, § 1, 8-11-2005)

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<sup>1</sup>State law reference(s)—Power of municipalities to prohibit criminal conduct, Wis. Stats. § 66.0107; obscene material or performance, Wis. Stats. § 944.21.

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**Sec. 8-24. Authority.**

- (a) The village board has explicit authority, under Wis. Stats. § 125.10(1), to adopt regulations governing the sale of alcohol beverages which are in addition to those set forth in Wis. Stats. ch. 125.
- (b) The village board has authority under its general police powers, set forth in Wis. Stats. §§ ~~60.22 and 60.23~~ **61.34**, to act for the good order of the village and for the health, safety and welfare of the public; and may carry out its powers by regulation and suppression.
- (c) The village board recognizes it lacks authority to regulate obscenity, as proscribed by Wis. Stats. § 66.0107(3), and does not intend by adopting this section to regulate obscenity, but the village board declares its intent to enact an ordinance addressing the secondary effects of live, totally nude, nonobscene, erotic dancing in bars and taverns.
- (d) Bars and taverns featuring live totally nude, nonobscene, 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.
- (e) 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 village board 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.
- (f) The village board is aware, based on the experiences of other communities, that bars and taverns in which live, totally nude, nonobscene, 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.
- (g) Among the secondary effects of bars and taverns in which live, totally nude, nonobscene, erotic dancing occurs are the following:
  - (1) The potential increase in prostitution and other sex-related offenses, as well as other crimes and offenses;
  - (2) The potential depreciation of property values in neighborhoods where bars and taverns featuring nude dancing exist;
  - (3) Health risks associated with the spread of sexually transmitted diseases; and
  - (4) The potential for infiltration by organized crime for the purpose of unlawful conduct.
- (h) 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; 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.
- (i) The village board has determined that enactment of an ordinance prohibiting live, totally nude, nonobscene, erotic dancing in bars and taverns licensed to serve alcoholic beverages promotes the goal of minimizing, preventing and controlling the above adverse effects and thereby protects the health, safety and general welfare of the citizens of the village, protects the citizens from increased crime; preserves the quality of life; preserves the property values and character of surrounding neighborhoods; and deters the spread of urban blight.

(Ord. No. 05-110, § 2, 8-11-2005)

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## Sec. 8-25. Grounds for suspension or revocation.

The following shall constitute grounds for suspension or revocation of a license issued by this village under Wis. Stats. ch. 125:

- (a) Conviction of an offense, contrary to Wis. Stats. § 944.21, or any successor statute or later amended version.
- (b) Arrest or bringing of charges, whether by complaint or citation, of a license holder pursuant to Wis. Stats. § 944.21, or an ordinance pursuant thereto.
- (c) A finding by the village board, whether or not court charges are filed, that the operation of the licensed facility or activity is in conflict with Wis. Stats. § 944.21.
- (d) A finding by the village board that any of the following conduct has occurred on premises which are licensed to sell intoxicating liquors and/or fermented malt beverages:
  - (1) *Specified sexual activities.* The following acts or conduct on licensed premises are specified sexual activities:
    - a. To display human genitals in a state of sexual stimulation or arousal.
    - b. To encourage or engage in acts or representation of acts of human masturbation, sexual intercourse or sodomy, bestiality, oral copulation or flagellation.
    - c. To encourage or permit any person to touch, caress, or fondle the breasts, buttocks, anus, or genitals of another person.
    - d. To employ any device, costume or covering which gives the appearance or simulates the areola, genitals, pubic hair, perineum or anus.
    - e. To perform excretory functions as part of or in connection with any activities set forth in subsections (d)(1)a. through (d)(1)d. of this section.
  - (2) *Sexual contact.* Sexual contact means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying the sexual desires of either party.
  - (3) *Simulation.* The actual or simulated displaying of the pubic hair, anus, vulva, or genitals.
  - (4) *Attire.* The failure to comply with the following performance and costume requirements: No licensee, either personally or through his agent or employee, shall furnish entertainment or permit the performance of any act, stunt or dance by dancers, performers or entertainers whether such dancers, performers, or entertainers are employed by the licensee, that does not meet the following wearing apparel standards when performing or when present upon the licensed premises:
    - a. That portion of every costume to be worn by dancers, performers or entertainers covered by the provisions of this subsection and which relates to the anus, vulva or genitals shall be of nontransparent material.
    - b. The lower portion of the costume worn by a female dancer, performer or entertainer, or a female impersonator, shall encircle the body at the area of the sex organs and buttocks in a groin-string fashion at minimum. This portion of the costume shall be of such dimensions and so conformed, fabricated and affixed to the body so as to completely cover the genitals including the outer and inner labia, vulva, and pubic hair area at all times. An animal fur piece or other device simulating the hair surrounding the pubic area shall not constitute compliance with the costume requirements of this article.

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- c. The lower portion of the costume worn by a male dancer, performer, or entertainer shall encircle the area of the sex organs and the buttocks in a groin-string fashion at minimum. This portion of the costume shall be of such dimensions as so conformed; fabricated and affixed to the body so as to completely cover the genitals, including the penis, testicles, and pubic hair area at all times. The display of the male genitals in the turgid state, whether covered or uncovered, shall constitute a violation of this article.
  - d. No retail licensee for on-premises consumption shall suffer or permit any person to appear on licensed premises in such manner or attire as to expose to view any portion of the anus, genitals, pubic hair, or any simulation thereof.
- (5) *Disorderly conduct by patrons.* Permitting any patron to participate in any act, stunt or dance that would constitute grounds for disciplinary proceedings under this article.
  - (6) *Further physical conduct.* Entertainers have physical contact with customers during their act, or enticing customers into joining into same.
  - (7) *Entertainer conduct.* Entertainers whose breasts and buttocks are exposed to view shall perform only upon a stage at least 18 inches above the immediate floor level.
  - (8) *Showing on film or other video medium.* The showing of any act, stunt or dance that would constitute grounds for disciplinary proceedings under this article on film or other video medium.
- (e) Regardless of the basis for the hearing on an adult-oriented establishment's violation of this article, the standard for disciplinary action shall be whether the board finds, by a preponderance of the evidence, that the grounds have occurred.

(Ord. No. 05-110, § 3, 8-11-2005)

#### **Sec. 8-26. Disciplinary guidelines.**

Alcohol licensees are to be disciplined according to the guidelines of present Wis. Stats. § 125.12, or any other later amended or successor statute and section 4-39.

(Ord. No. 05-110, § 4, 8-11-2005)

#### **Sec. 8-27. Exemptions.**

The provisions of this article do 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.

(Ord. No. 05-110, § 5, 8-11-2005)

### **ARTICLE III. DIRECT SELLERS AND SOLICITORS**

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**Sec. 8-28. Definitions.**

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

*Charitable organization* means and includes any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation, but shall not include religious organizations.

*Direct seller* means any person who sells goods or services or takes sales orders for the later delivery of goods at any location other than the permanent business place or residence of said person and shall include, but not be limited to, peddlers, solicitors and transient merchants. For purpose of this article the acceptance of a donation in exchange for goods, or an order for goods, shall be deemed an act requiring compliance with all of the regulatory provisions of this article, including registration and the posting of a bond.

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

*Permanent merchant* means a direct seller who, for at least one year prior to the consideration of the application of this article to said merchant, has continuously operated an established place of business in the village or has continuously resided in the village and now does business from his residence.

(Ord. No. V15-14, 10-27-2015)

**Sec. 8-29. Penalty.**

Any person convicted of violating any provision of this article shall be punished as provided in section 1-7.

(Ord. No. V15-14, 10-27-2015)

**Sec. 8-30. License required.**

It shall be unlawful for any direct seller or solicitor to engage in direct sales or solicitations within the village without being licensed for that purpose as provided herein.

(Ord. No. V15-14, 10-27-2015)

**Sec. 8-31. Exemptions.**

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

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

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- (f) Any person who has had, or one who represents a company which has had, a prior business transaction such as a prior sale or credit arrangement on other than a one-time basis with the prospective customer.
  - (g) Any person selling, or offering for sale, a service not connected with the sale or offering for sale of goods.
  - (h) Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law.
  - (i) Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization.
  - (j) Any person who claims to be a permanent merchant and has submitted to the village clerk proof that such person has leased for at least one year, or purchased, the premises from which ~~he is~~ they are conducting business, or proof that such person has conducted such business in this village for at least one year prior.
  - (k) Any religious organization having tax exempt status under section 501(c)(3) of the United States Internal Revenue Code.

(Ord. No. V15-14, 10-27-2015)

#### **Sec. 8-32. Application.**

- (a) Applicants for licensing must complete and return to the village clerk a form furnished by the village clerk.
- (b) Applicants shall present to the village clerk for examination:
  - (1) A driver's license or some proof of identify as may be reasonably required by the village clerk.
  - (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 certificate where the applicant's business involves the handling of food, and is required to be certified under state law; such certificate to state that the applicant is apparently free from any contagious or infectious disease, dated not more than 90 days prior to the date the application for license is made.
- (c) At the time of the application, an investigation fee of \$100.00 shall be paid to the village clerk to cover the cost of processing said application. Religious and charitable organizations are exempt from paying said fee. The license shall be valid for a period of one year from the date of entry, subject to subsequent refusal as provided in section 8-33 or forfeiture as provided in section 8-36.

(Ord. No. V15-14, 10-27-2015)

#### **Sec. 8-33. Investigation; granting or denial of license.**

- (a) Upon receipt of a completed license application form, the village clerk shall immediately submit it to the Department of Justice to make a criminal background investigation.
- (b) The village clerk shall refuse to issue a license to the applicant for any of the following reasons:
  - (1) The application contains any material omission or materially inaccurate statement.

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- (2) The applicant was convicted of a crime, statutory violation or ordinance violation within the last five years, the nature of which is directly related to the applicant's fitness to engage in direct selling or solicitation.
  - (3) The applicant failed to comply with any applicable provision of section 8-32.
  - (4) If as a result of the investigation required under this section, the applicant's business or character is found to be unsatisfactory, the village clerk shall notify the applicant the reason that the application was not approved and no license will be issued.
- (c) In the event the village clerk shall refuse to issue the applicant a license, the village clerk shall provide the applicant an opportunity to refute said reasons for denial of the license. After the village clerk has made a final determination, a license shall be issued or a written statement will be provided to the applicant on the reason(s) for refusal to issue the license.
  - (d) Any person denied application for a license may appeal such action by filing with the village board within 14 days after written notice of the denial a written statement requesting a hearing and setting forth the grounds for the appeal. The village board shall set a time and place for the hearing. Written notice of the time and place of the hearing shall be given to the applicant at least 24 hours prior to the time set for the hearing.

(Ord. No. V15-14, 10-27-2015)

#### **Sec. 8-34. Issuance of license.**

- (a) Upon compliance with the foregoing requirements and filing of a bond, if applicable, the village clerk shall issue a direct seller, transient merchant or solicitor license to the applicant. The license shall be operative only during the days requested on the application form.
- (b) Such license shall contain the signature of the village clerk, the name and address of the direct seller, transient merchant or solicitor, the type of goods or services being sold or the nature of the solicitation, the dates during which the license is operative and the license number of any vehicle used for sales or solicitation.
- (c) The direct seller, transient merchant or solicitor shall exhibit their license at the request of any citizen or law enforcement officer.
- (d) Every applicant who intends to take sales orders and down payments for the later delivery of goods and services, shall file with the village clerk a surety bond for a term of one year from the date of issuance of license, running to the village in the amount of \$50,000.00, conditioned that the applicant comply with all applicable ordinances of this village and statutes of the state regulating peddlers, canvassers, solicitors and transient merchants. Such bond shall guarantee to any citizen of this village that all money paid as a down payment will be accounted for and applied according to the representations of the seller and that the property purchased will be delivered according to the representations of the seller. Action on such bond may be brought by the person aggrieved and for whose benefit, among others, the bond is given. The surety may, pursuant to a court order, pay the face amount of the bond to the clerk of courts in which suit is commenced and be relieved of all further liability.

(Ord. No. V15-14, 10-27-2015)

#### **Sec. 8-35. Prohibited practices.**

- (a) A direct seller shall be prohibited from calling at any dwelling or other place between the hours of 7:00 p.m. and 9:00 a.m., except by appointment; calling at any dwelling or other place where a sign is displayed

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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.

- (b) A direct seller shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any goods offered for sale, the purpose of his visit, his identity or the identity of the organization he represents. A charitable or religious organization direct seller shall specifically disclose what portion of the free donation or the sale price of goods being offered will actually be used for the charitable or religious purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the goods.
- (c) No direct seller shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.
- (d) No direct seller shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a 100-foot radius of the source.
- (e) No direct seller shall allow rubbish or litter to accumulate in or around the area in which he is conducting business.

(Ord. No. V15-14, 10-27-2015)

#### **Sec. 8-36. Disclosure requirements.**

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

(Ord. No. V15-14, 10-27-2015)

#### **Sec. 8-37. Records.**

The Calumet County Sheriff's Department shall report to the village clerk all convictions for violation of this article and the village clerk shall note any such violation on the record of the registrant convicted.

(Ord. No. V15-14, 10-27-2015)

#### **Sec. 8-38. Revocation of license.**

- (a) Any license issued under this article 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 a license,

made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales, violated any provision of this article 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 mailed to the seller at the permanent address shown on the registration at least 15 days, or shall be served personally on the registrant at least 72 hours, prior to the time set for the hearing; such notice shall contain the time and place of the hearing and a statement of the facts upon which the hearing will be based.

(Ord. No. V15-14, 10-27-2015)

## ARTICLE IV. BUSINESS LICENSE

### Sec. 8-38. Purpose

(a) The purpose of the registration and business license as described herein are as follows:

- (1) The collection of current and accurate information identifying existing business entities within the village and the initiation or termination of such businesses.
- (2) Assistance with the efforts of various village officials and departments, including the building inspector, village clerk and fire department in maintaining accurate records of business and commercial owners to enable the officials and departments to perform their respective duties.

### Sec. 8-39. Business License Registration

(a) It shall be unlawful for any individual partnership, corporation, or other for-profit entity to conduct regular and ongoing business at a permanent location within the village without being registered for that purpose and obtain a business license as provided herein. This section shall apply to all for-profit business entities whether classified as manufacturing, commercial, retail. Wholesale, service, or a home-based business that requires a conditional use permit and shall also apply to all non-profit organizations.

### Sec. 8-40. Application

- (a) Each owner of a regular and ongoing business within the village shall complete and return to the village clerk a registration form furnished by the clerk which shall require information pertaining to the business, including identification of the business owner, contact information for building owner, business location, and type of business. This requirement shall apply to all business entities or establishments described in subsection (A) of this section which exist at or are initiated after the effective date of the ordinance from which this section is derived.
- (b) A nonprofit organization existing within the village shall complete and return to the village clerk a registration form furnished by the clerk which shall require information pertaining to the organization, including identification of the head of the organization,

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contract information, organization's location or meeting place, and type of organization. This requirement shall apply to any nonprofit organization existing at or initiated after the effective date of the ordinance from which this section is derived.

(c) At the time the registration is returned, a fee shall be paid to the village clerk to cover the cost of processing the registration. The village board is hereby provided with the power to enact resolutions when deemed necessary, establishing fees regarding this section. The amount of the fee shall be stated in such resolution. The village clerk shall maintain a current schedule of fees. Upon payment of such fee and review of the completed application, the clerk shall issue a business license to the applicant.

(d) This fee shall not apply to nonprofit organizations.

(e) All organizations I need to update this to something along the lines of requiring all business entities whether for profit or non-profit organizations must be inspected by the fire department prior to opening day.

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#### **Sec. 8-41. Term; Termination of Business**

(a) The business license shall be effective and valid for the life of the business entity.

(b) A new business license shall be required for a change of ownership or a change of name in existing business and applicable fee paid to the village clerk.

(c) Each holder of a business license shall notify the village clerk upon termination of the business entity or establishment. The clerk shall record such termination and cancel the business license.

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#### **Sec. 8-41. Duty to Update**

(a) Each holder of a business license shall notify the village clerk of any change pertaining to the information provided on the license application. The notification shall be made within 30 days of any such change.

#### **Sec. 8-42. Penalty**

(a) Any individual, partnership, corporation, or other for-profit business organization or nonprofit organization convicted of violating any provision of this section shall forfeit not less than \$25.00 nor more than \$100.00 for each violation plus cost of prosecution.

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