

TITLE 7

Licensing and Regulation

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CHAPTER 1

Licensing of Dogs and Cats; Regulation of Animals

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SEC. 7-1-1 DOG AND CAT LICENSES REQUIRED; DEFINITIONS.

- (a) **License Required.** It shall be unlawful for any person in the Village of Colfax to own, harbor or keep any dog or cat for more than five (5) months of age after July 1 of the license year without complying with the provisions of this Chapter relating to the listing, licensing and tagging of the same.

(b) **Definitions.** In this Chapter, unless the context or subject matter otherwise require:

- (1) "Owner" shall mean any person owning, harboring or keeping a dog or cat and the occupant of any premises on which a dog or cat remains or to which it customarily returns daily for a period of ten (10) days; such person is presumed to be harboring or keeping the dog or cat within the meaning of this Section.
- (2) "At large" means to be off the premises of the owner and not under the control of some person either by leash or otherwise, but a dog 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" shall mean any canine, regardless of age or sex.
- (4) "Cat" shall mean any feline, regardless of age or sex.
- (5) "Neutered" as used herein as describing a dog or cat shall mean a dog or cat having nonfunctional reproductive organs.
- (6) "Animal" means mammals, reptiles and birds.
- (7) "Cruel" means causing unnecessary and excessive pain or suffering or unjustifiable injury or death.
- (8) "Law Enforcement Officer" has that meaning as appears in Sec. 967.02(5), Wis. Stats., and includes a humane officer under Sec. 58.07, Wis. Stats., but does not include a conservation warden appointed under Sec. 23.10, Wis. Stats.
- (9) "Farm Animal" means any warm-blooded animal normally raised on farms in the United States and used for food or fiber.
- (10) "Pet" means an animal kept and treated as a pet.
- (11) "Residential Lot" means 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" means 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 or cat shall have the dog or cat vaccinated against rabies by a veterinarian within thirty (30) days after the dog or cat reaches four (4) months of age and revaccinated within one (1) year after the initial vaccination. If the owner obtains the dog or cat or brings the dog into the Village of Colfax after the dog or cat has reached four (4) months of age, the owner shall have the dog or cat vaccinated against rabies within thirty (30) days after the dog or cat is brought into the Village unless the dog or cat has been vaccinated as evidenced by a current certificate of rabies vaccination. The owner of a dog or cat shall have the dog or cat 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 or cat 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 or cat, 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 or cat at all times, but this requirement does not apply to a dog or cat during competition or training, to a dog while hunting, to a dog or cat securely confined indoors or to a dog or cat 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 or cat 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, CAT AND KENNEL LICENSES.

(a) **Dog and Cat Licenses.**

- (1) It shall be unlawful for any person in the Village of Colfax to own, harbor or keep any dog or cat 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 or cat 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 or cat becomes five (5) months of age, pay a license tax and obtain a license.
- (3) The minimum license tax under this Section shall be:
 - a. Neutered males and spayed females -- Five and Dollars (\$5.00).
 - b. Unneutered males and unspayed females -- Eight and Dollars (\$8.00).

- (4) Upon payment of the required license tax and upon presentation of evidence that the dog or cat 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 or cat 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 or cat for which the license is issued at all times, except as provided in Section 7-1-2(e).
 - (6) The fact that a dog or cat is without a tag attached to the dog or cat by means of a collar shall be presumptive evidence that the dog or cat is unlicensed. Any law enforcement or humane officer shall seize, impound or restrain any dog or cat for which a dog or cat 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 tax, and every person owning such a dog shall receive annually a free dog license from the Village Clerk-Treasurer upon application therefor.
- (b) **Kennel Licenses.**
- (1) Any person who keeps or operates a kennel may, instead of the license tax for each dog required by this Chapter, apply for a kennel license for the keeping or operating of the kennel. Such person shall pay for the license year a license tax of Thirty-six and 50/100 Dollars (\$36.50) for a kennel of twelve (12) or fewer dogs and an additional Four Dollars (\$4.00) for each dog in excess of twelve (12). Upon payment of the required kennel license tax and, if required by the Village Board, upon presentation of evidence that all dogs over five (5) months of age are currently immunized against rabies, the Village Clerk-Treasurer shall issue the kennel license and a number of tags equal to the number of dogs authorized to be kept in the kennel. Kennels may only be located in residential areas following a public hearing and approval by the Village Board; the Board may attach conditions to such approval as a conditional use under the Village's Zoning Code.
 - (2) The owner or keeper of a kennel shall keep at all times a kennel license tag attached to the collar of each dog over five (5) months old kept by the owner or keeper under a kennel license but this requirement does not apply to a show dog during competition, to a dog securely confined indoors or to a dog securely confined in a fenced area. These tags may be transferred from one dog to another within the kennel whenever any dog is removed from the kennel. The rabies vaccination tag or substitute tag shall remain attached to the dog for which it is issued at all times but this requirement does not apply to a show dog during competition, to a dog securely confined indoors or to a dog securely confined in a fenced area. No dog bearing a kennel tag shall be permitted to stray or to be taken anywhere outside the limits of the kennel unless the dog is in leash or temporarily for the purposes of hunting, breeding, trial, training or competition.
 - (3) The term "kennel" means any establishment wherein or whereon three (3) or more dogs are kept.
 - (4) No kennel license shall be issued to the keeper or operator of a kennel who fails to provide proper food and drink and proper shelter for the dogs in said kennel or who neglects or abandons said dogs. Designated officials shall investigate any complaints regarding the failure to maintain proper standards or investigate any kennel premises upon his own initiative.

Expressly incorporated by reference in this Section as minimum standards for kennel keepers or operator are the relevant provisions of Chapter 948 of the Wisconsin Statutes.

- (5) A condition of a kennel license shall be that the licensed premises may be entered and inspected at any reasonable hour by appropriate Village officials without any warrant, and the application for a license hereunder shall be deemed a consent to this provision. Any refusal to permit such inspection shall automatically operate as a revocation of any license issued hereunder and shall be deemed a violation of this Section. Should any kennel be found to constitute a public nuisance, the license shall be revoked and the nuisance abated pursuant to Village ordinances.

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

SEC. 7-1-4 LATE FEES.

The Village Clerk-Treasurer shall assess and collect a late fee of Five Dollars (\$5.00) from every owner of a dog five (5) months of age or over 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 if the owner failed to obtain a license on or before the dog reached licensable age. Said late fee shall be charged in addition to the required license fee.

SEC. 7-1-5 RABIES QUARANTINE.

- (a) **Dogs and Cats Confined.** If a district is quarantined for rabies, all dogs and cats within the Village shall be kept securely confined, tied, leashed or muzzled. Any dog or cat 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.
- (b) **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.
- (c) **Quarantine or Sacrifice of an Animal Suspected of Biting a Person or Being Infected or Exposed to Rabies.**
 - (1) Quarantine or sacrifice of dog or cat. An officer or animal warden shall order a dog or cat quarantined if the officer has reason to believe that the animal bit a person, is infected with rabies or has been in contact with a rabid animal. If a quarantine cannot be imposed because the dog or cat cannot be captured, the officer may kill the animal. The officer shall attempt to kill the animal in a humane manner and in a manner which avoids damage to the animal's head.
 - (2) Sacrifice of other animals. An officer may order killed or may kill an animal other than a dog or cat if the officer has reason to believe that the animal bit a person or is infected with rabies.

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

- (1) Delivery to isolation facility or quarantine on premises of owner. An officer or animal warden who orders a dog or cat to be quarantined shall deliver the animal or shall order the animal delivered to an isolation facility as soon as possible but no later than twenty-four (24) hours after the original order is issued or the officer may order the animal to be quarantined on the premises of the owner if the animal is immunized currently against rabies as evidenced by a valid certificate of rabies vaccination or other evidence.
- (2) Health risk to humans. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal bit a person, the custodian of an isolation facility or the owner shall keep the animal under strict isolation under the supervision of a veterinarian for at least ten (10) days after the incident occurred. In this paragraph, "supervision of a veterinarian" includes, at a minimum, examination of the animal on the first day of isolation, on the last day of isolation and on one (1) intervening day. If the observation period is not extended and if the veterinarian certifies that the dog or cat has not exhibited any signs of rabies, the animal may be released from quarantine at the end of the observation period.
- (3) Risk to animal health.
 - a. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal and if the dog or cat 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 or cat 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 or cat is immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for sixty (60) days. The owner shall have the animal revaccinated against rabies as soon as possible after exposure to a rabid animal.
- (4) Destruction of a dog or cat exhibiting symptoms of rabies. If a veterinarian determines that a dog or cat exhibits symptoms of rabies during the original or extended observation period, the veterinarian shall notify the owner and the officer who ordered the animal quarantined and the officer or veterinarian shall kill the animal in a humane manner and in a manner which avoids damage to the animal's head. If the dog or cat is suspected to have bitten a person, the veterinarian shall notify the person or the person's physician.

- (e) **Delivery of Carcass; Preparation; Examination by Laboratory of Hygiene.** An officer who kills an animal shall deliver the carcass to a veterinarian or local health department. The veterinarian or local health department shall prepare the carcass, properly prepare and package the head of the animal in a manner to minimize deterioration, arrange for delivery by 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.

- (f) **Cooperation of Veterinarian.** Any practicing veterinarian who is requested to be involved in the rabies control program by an officer is encouraged to cooperate in a professional capacity with the Village, the Laboratory of Hygiene, the local health department, the officer involved and, if the animal is suspected to have bitten a person, the person's physician.
- (g) **Responsibility for Quarantine and Laboratory Expenses.** The owner of an animal is responsible for any expenses incurred in connection with keeping the animal in an isolation facility, supervision and examination of the animal by a veterinarian, preparation of the carcass for laboratory examination and the fee for the laboratory examination. If the owner is unknown, the county is responsible for these expenses.

SEC. 7-1-6 RESTRICTIONS ON KEEPING OF DOGS, CATS, FOWL AND OTHER ANIMALS.

- (a) **Restrictions.** It shall be unlawful for any person within the Village of Colfax to own, harbor or keep any dog, cat or other domestic animal which:
 - (1) Habitually pursues any vehicle upon any public street, alley or highway in the Village.
 - (2) Assaults or attacks any person or destroys property.
 - (3) Is at large within the limits of the Village.
 - (4) Habitually barks or howls to the annoyance of any person or persons. (See Section 7-1-12.)
 - (5) Kills, wounds or worries any domestic 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 or cat, is unlicensed.
- (b) **Vicious Dogs and Animals.**
 - (1) No vicious dog shall be allowed off the premises of its owner unless muzzled or on a leash in charge of the owner or a member of the owner's immediate family over sixteen (16) years of age. For purposes of enforcing this Section, a dog shall be deemed as being of a vicious disposition if, within any twelve (12) month period it bites two (2) or more persons or inflicts serious injury to one (1) person in unprovoked circumstances off the owner's premises.
 - (2) No person shall harbor or permit to remain on his/her premises any animal that is habitually inclined toward attacking persons or animals, destroying property, barking excessively or making excessive noises or running after automobiles.
- (c) **Animals Running at Large.**
 - (1) No person having in his/her possession or ownership any animal or fowl shall allow the same to run at large within the Village. The owner of any animal, whether licensed or unlicensed, shall keep his/her animal tied or enclosed in a proper enclosure so as not to allow said animal to interfere

with the passing public or neighbors. Any animal running at large unlicensed and required by state law or Village Ordinance to be licensed shall be seized and impounded by a humane or law enforcement officer or animal warden.

- (2) A dog or cat shall not be considered to be running at large if it is on a leash not to exceed ten (10) feet in length and under control of a person physically able to control it when the animal is off of the owner's premises.
- (d) **Animals Restricted on Public Grounds and Cemeteries.** No dog or cat shall be permitted in any public playground, school grounds, public park, beach, or swimming area within the Village unless such dog or cat is on a leash and under control. Dogs and cats are prohibited from being in cemeteries. Every dog specially trained to lead blind persons shall be exempt from this Section.
- (e) **Owner's Liability for Damage Caused by Dogs; Penalties.** The provisions of Sec. 174.02, Wis. Stats., relating to the owner's liability for damage caused by dogs together with the penalties therein set forth are hereby adopted and incorporated herein by reference.

SEC. 7-1-7 IMPOUNDMENT OF ANIMALS.

- (a) **Animal Control Agency.**
 - (1) The Village of Colfax may contract with or enter into an agreement with such person, persons, organization or corporation to provide for the operation of an animal shelter, impoundment of stray animals, confinement of certain animals, disposition of impoundment animals and for assisting in the administration of rabies vaccination programs.
 - (2) The Village of Colfax 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 made under oath alleging the facts regarding the violation and containing an agreement to reimburse the Village for any damages it sustains for improper or illegal seizure.
- (c) **Claiming Animal; Disposal of Unclaimed Animals.** After seizure of animals under this Section by a law enforcement or 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/her possession. If within seven (7) days after such notice the owner does not claim such animal, the officer may dispose of the animal in a proper and humane manner; provided, if an animal before being impounded has bitten a person, the animal shall be retained in the Animal Shelter for ten (10) days for observation purposes. Within such times, the owner may reclaim the animal upon payment of impoundment fees, such fees to be established by resolution of the Village Board. No

animal shall be released from the pound without being properly licensed if so required by state law or Village Ordinance.

- (d) **Sale of Impounded Animals.** If the owner doesn't reclaim the animal within seven (7) days, the animal 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 DOG OR CAT BITE.

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

SEC. 7-1-9 PIT BULLS AND OTHER DANGEROUS ANIMALS.

- (a) **Keeping of Animals Prohibited.** It shall be unlawful to keep, harbor, own or in any way possess within the corporate limits of the Village of Colfax:
 - (1) Any warm-blooded, carnivorous or omnivorous, wild or exotic animal including but not limited to non-human primates, raccoons, skunks, foxes and wild and exotic cats.
 - (2) Any animal having poisonous bites.
 - (3) Any pit bull dog provided that pit bull dogs registered with the Village on the day this Section becomes effective may be kept within the Village subject to the standards and requirements set forth in Subsection (b) of this Section. "Pit bull dog" as that term is used in this Section is defined to mean:
 - a. The Staffordshire bull terrier breed of dog;
 - b. The American pit bull terrier breed of dog;
 - c. The American Staffordshire terrier breed of dog;
 - d. Any dog which has the appearance and characteristics of being predominantly of the breeds of Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier, or a combination of any of these breeds.
- (b) **Keeping of Registered Pit Bulls.** The provisions of Subsection (a) are not applicable to owners, keepers or harbors of pit bull dogs registered with the Village of Colfax keeping, owning or harboring of such dogs is however subject to the following conditions:
 - (1) **Leash and Muzzle.** No person shall permit a registered pit bull dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four (4) feet in length. No person shall permit a pit bull dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all pit bull dogs on a leash outside the animal's kennel or pen must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.

- (2) Confinement. All registered pit bull dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel except when leashed and muzzled as provided in Subsection (b)(1). All pens or kennels shall comply with all zoning and building regulations of the Village and shall be kept in a clean and sanitary condition.
- (3) Confinement Indoors. No pit bull dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition.
- (4) Signs. All owners, keepers or harborers of registered pit bull dogs within the Village shall within ten (10) days of the effective date of this Section display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog". In addition, a similar sign is required to be posted on the kennel or pen of such animal.
- (5) Insurance. All owners, keepers or harborers of registered pit bull dogs must within thirty (30) days of the effective date of this Section provide proof to the Clerk-Treasurer of public liability insurance in a single incident amount of Fifty Thousand Dollars (\$50,000) for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from the ownership, keeping or maintenance of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days written notice is first given to the Clerk-Treasurer.
- (6) Registration. All owners, keepers or harborers of pit bull dogs shall within thirty (30) days after the effective date of this Section register said dog with the Village by filing with the Clerk-Treasurer two (2) color photographs of the dog clearly showing the color and approximate size of the dog.
- (7) Reporting Requirements. All owners, keepers or harborers of registered pit bull dogs must within ten (10) days of the incident, report the following information in writing to the Clerk-Treasurer:
 - a. The removal from the Village or death of a registered pit bull;
 - b. The birth of offspring of a registered pit bull dog;
 - c. The new address of a registered pit bull dog should the dog be moved within the Village of Colfax.
 - d. If the registered pit bull dog is sold, the name and address of the new owner.
- (8) Animals Born of Registered Dogs. All offspring born of pit bull dogs registered within the Village must be removed from the Village within six (6) weeks after the birth of said animal.
- (9) Failure to Comply. It shall be unlawful for the owner, keeper or harborer of a pit bull dog registered with the Village to fail to comply with the requirements and conditions set forth in this Section.

SEC. 7-1-10 ANIMAL FECES.

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

- (b) **Accumulation of Fecal Matter Prohibited on Private Yards.** The owner or person in charge of the dog or cat must also prevent accumulation of animal waste on his/her own property by regularly patrolling and properly disposing of the fecal matter.

SEC. 7-1-11 INJURY TO PROPERTY BY ANIMALS.

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

SEC. 7-1-12 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. A dog or cat is considered to be in violation of this Section when two (2) formal, written complaints are filed with the Village Police Department within a four (4) week period.

SEC. 7-1-13 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 (*chelonia mydas*), Mexican ridley turtle (*lepidochelys kemp*i).
- (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, 91st Congress).
- (3) Regulating the Importation of Certain Birds. No person, firm or corporation shall import or cause to be imported into this Village any part of the plumage, skin or dead body of any species of hawk, owl or eagle. This paragraph shall not be construed to forbid or restrict the importation or use of the plumage, skin, body or any part thereof legally collected for use by the American Indians for ceremonial purposes or in the preservation of their tribal customs and heritage.

- (b) **Exceptions.** The provisions of Subsection (a) above shall not be deemed to prevent the lawful importation, possession, purchase or sale of any species by any public agency, institute of higher learning, persons holding federal permits, or by a person holding a Scientific Collectors Permit issued by the Secretary of the Department of Natural Resources of the state, or to any person or organization licensed to present a circus.
- (c) **Wild Animals; Prohibition on Keeping.** It shall be unlawful for any person to keep, maintain or have in his possession or under his control within the Village any poisonous reptile or any other dangerous or carnivorous wild animal, insect or reptile, any vicious or dangerous domesticated animal or any other animal or reptile of wild, vicious or dangerous propensities. Specifically, it shall be unlawful for any person to keep, maintain or have in his possession or under his control within the Village any of the following animals, reptiles or insects:
- (1) All poisonous animals and reptiles including rear-fang snakes.
 - (2) Apes: Chimpanzees (Pan); gibbons (Hylobates); gorillas (Gorilla); orangutans (Pongo); and siamangs (Symphalangus).
 - (3) Baboons (Papoi, Mandrillus).
 - (4) Bears (Ursidae).
 - (5) Bison (Bison).
 - (6) Cheetahs (Acinonyx jubatus).
 - (7) Crocodilians (Crocodilia), thirty (30) inches in length or more.
 - (8) Constrictor snakes.
 - (9) Coyotes (Canis latrans).
 - (10) Deer (Cervidae); includes all members of the deer family; for example, whitetailed deer, elk, antelope and moose.
 - (11) Elephants (Elephas and Loxodonta).
 - (12) Ferret.
 - (13) Game cocks and other fighting birds.
 - (14) Hippopotami (Hippopotamidae).
 - (15) Hyenas (Hyaenidae).
 - (16) Jaguars (Panthera onca).
 - (17) Leopards (Panthera pardus).
 - (18) Lions (Panthera leo).
 - (19) Lynxes (Lynx).
 - (20) Monkeys, old world (Cercopithecidae).
 - (21) Ostriches (Struthio).
 - (22) Pumas (Felis concolor); also known as cougars, mountain lions and panthers.
 - (23) Rhinoceroses (Rhinocerotidae).
 - (24) Sharks (class Chondrichthyes).
 - (25) Snow leopards (Panthera uncia).
 - (26) Tigers (Panthera tigris).
 - (27) Wolves (Canis lupus).
 - (28) Poisonous insects.
- (d) **Exceptions; Pet Shops.** The prohibitions of Subsection (c) above shall not apply where the creatures are in the care, custody or control of: a veterinarian for treatment; agricultural fairs; shows or projects of the 4-H Clubs; a display for judging purposes; an itinerant or transient carnival, circus or other show; dog or cat shows or trials; public or private educational institutions; licensed pet shops; zoological gardens; if:

ORDINANCE 2011-03

An ordinance regarding the keeping and regulation of domesticated chickens in the Village.

THE VILLAGE BOARD OF THE VILLAGE OF COLFAX, WISCONSIN, DO ORDAIN AS FOLLOWS:

SECTION 1. Section 7-1-13(e) of the Code of Ordinances for the Village of Colfax, Wisconsin, is hereby repealed and recreated as follows:

- (e) **Farm Animals; Miniature Pigs.** Except on properties zoned in an agricultural classification, no person shall own, keep, harbor or board any cattle, horses, ponies, swine, goats, sheep, fowl (except as described in Subsection (f)), or rabbits (more than two). For purposes of this Subsection, the term 'swine' shall not include any miniature pigs of either sex weighing less than eight (80) pounds, which are intended for and kept as domestic pets.

SECTION 2. Section 7-1-13(f) of the Code of Ordinances for the Village of Colfax, Wisconsin, is hereby created as follows:

- (f) **Domesticated Chickens.** The purpose of this Subsection is to provide standards for the keeping of domesticated chickens. It is intended to enable residents to keep a small number of female chickens on a non-commercial basis while limiting the potential adverse impacts on the surrounding neighborhood. The Village recognizes that adverse neighborhood impacts may result from the keeping of domesticated chickens as a result of noise, odor, unsanitary animal living conditions, unsanitary waste storage and removal, the attraction of predators, rodents, insects, or parasites and non-confined animals leaving the owner's property. This Subsection is intended to create licensing standards and requirements that ensure that domesticated chickens do not adversely impact the neighborhood surrounding the property on which the chickens are kept.
 - (1) Permit Required. An annual permit (July 1 – June 30) is required for the keeping of any domesticated chickens in the Village of Colfax. The fee for an annual permit to keep chickens is ten dollars (\$10.00) per parcel for ten (10) or less chickens.
 - (2) Number and Type of Chickens Allowed. The maximum number of chickens allowed is ten (10) per parcel. Only female chickens are allowed. There is no restriction on chicken species.
 - (3) Enclosures. Chickens must be kept in an enclosure or fenced area at all times. During daylight hours, chickens may be allowed outside of their chicken pens in a securely fenced yard if supervised. Chickens shall be secured within the henhouse during non-daylight hours. Enclosures must be clean, dry, and odor-free, kept in a neat and sanitary condition at all times, in a manner that will not disturb the use or enjoyment of neighboring lots due to noise, odor or other adverse impact. The hen house and chicken pen must provide adequate ventilation and adequate sun and shade and must both be impermeable to rodents, wild birds and predators, including dogs and cats.

- (4) Henhouses. A henhouse shall be provided and shall be designed to provide safe and healthy living conditions for the chickens while minimizing adverse impacts to other residents in the neighborhood. The structures shall be enclosed on all sides and shall have a roof and doors. Access doors must be able to be shut and locked at night. Opening windows and vents must be covered with predator- and bird-proof wire of less than one (1) inch openings. The henhouse shall be well-maintained. Henhouses shall not be placed in the front yard.
- (5) Chicken Pens. An enclosed chicken pen must be provided consisting of sturdy wire fencing. The pen must be covered with wire, aviary netting, or solid roofing.
- (6) Odor and Noise Impacts. Odors from chickens, chicken manure, or other chicken-related substances shall not be perceptible at the property boundaries. Perceptible noise from chickens shall not be loud enough at the property boundaries to disturb persons of reasonable sensitivity.
- (7) Lighting. Only motion-activated lighting may be used to light the exterior of the henhouse.
- (8) Predators, Rodents, Insects and Parasites. The property owner shall take necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites.
- (9) Feed and Water. Chickens must be provided with access to feed and clean water at all times; such feed and water shall be made unavailable to rodents and predators.
- (10) Waste Storage and Removal. Provision must be made for the storage and removal of chicken manure. All stored manure shall be covered by a fully enclosed structure with a roof or lid over the entire structure. All other manure not used for composting or fertilizing shall be removed. In addition, the henhouse, chicken pen and surrounding area must be kept free from trash and accumulated droppings. Uneaten feed shall be removed in a timely manner.
- (11) Application for Permit. Every applicant for a permit to keep domesticated chickens shall complete and file an application on a form prescribed by the Village and deposit the prescribed permit fee with the Village Clerk at the time the application is filed. Any material misstatement or omission shall be grounds for denial, suspension or revocation of the permit.
- (12) Approval of Permit. The Village Board shall issue a permit if the applicant has demonstrated compliance with the criteria and standards in this article.
- (13) Denial, Suspension or Revocation of Permit. The Village Board shall deny a permit if the applicant has not demonstrated compliance with all provisions of this Subsection. A permit to keep domesticated chickens may be suspended or revoked by the Village Board where there is a risk to public health or safety or for any violation of or failure to comply with any of the provisions of this Subsection or with the provisions of any other applicable ordinance or law. Any denial, revocation or suspension of a permit shall be in writing.
- (14) Penalty. In addition to any other enforcement action which the Village may take, violation of any provision of this Subsection shall be

a civil violation and a forfeiture not exceeding one hundred dollars (\$100.00) may be imposed. Each day that a violation continues will be treated as a separate offense.

- (15) Removal of Chickens. In addition to the penalty, any violation of the provisions of this Subsection or of the permit shall be grounds for an order from the Village to remove the chickens and the chicken-related structures. The Police Chief may also order the removal of the chickens upon a determination that the chickens pose a health risk. If a chicken dies, it must be disposed of promptly in a sanitary manner.
- (16) Severability. In the event that any section, subsection or portion of this Subsection shall be declared by any competent court to be invalid for any reason, such decision shall not be deemed to affect the validity of any other Section, Subsection or portion of this Subsection.

SECTION 3. This ordinance shall take effect upon passage and publication as required by law.

Village of Colfax

Gary Stene, President

ATTEST:

Kathleen V. Morse, MMC/CMTW/WCPC
Interim Clerk-Treasurer

Adopted – May 9, 2011
Published – May 18, 2011

- (1) Their location conforms to the provisions of the zoning ordinance of the Village.
- (2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.
- (3) Animals are maintained in quarters so constructed as to prevent their escape.
- (4) No person lives or resides within one hundred (100) feet of the quarters in which the animals are kept.
- (e) **Farm Animals; Miniature Pigs.** Except on properties zoned in an agricultural classification, no person shall own, keep, harbor or board any cattle, horses, ponies, swine, goats, sheep, fowl [more than two (2)] or rabbits [more than two (2)]. 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. 7-1-14 SALE OF RABBITS, CHICKS OR ARTIFICIALLY COLORED ANIMALS.

- (a) No person may sell, offer for sale, raffle, give as a prize or premium, use as an advertising device or display living chicks, ducklings, other fowl or rabbits that have been dyed or otherwise colored artificially.
- (b) (1) No person may sell, offer for sale, barter or give away living chicks, ducklings or other fowl without providing proper brooder facilities for the care of such chicks, ducklings or other fowl during the time they are in such person's care, custody or control.
- (2) No retailer, as defined in Sec. 100.30(2)(g), Wis. Stats., may sell, offer for sale, barter or give away living baby rabbits, baby chicks, ducklings or other fowl under two (2) months of age, in any quantity less than six (6), unless the purpose of selling these animals is for agricultural, wildlife or scientific purposes.

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

SEC. 7-1-15 PROVIDING PROPER FOOD AND DRINK TO CONFINED ANIMALS.

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

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

SEC. 7-1-16 PROVIDING PROPER SHELTER.

- (a) **Proper Shelter.** No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter as prescribed in this Section. In the case of farm animals, nothing in this Section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices in the particular county where the animal or shelter is located.
- (b) **Indoor Standards.** Minimum indoor standards of shelter shall include:
 - (1) Ambient temperatures. The ambient temperature shall be compatible with the health of the animal.
 - (2) Ventilation. Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.
- (c) **Outdoor Standards.** Minimum outdoor 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. 948.14, Wis. Stats.

SEC. 7-1-17 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 recovery, it shall be lawful for such officer to kill such animal and the owner thereof shall not recover damages for the killing of such animal unless he shall prove that such killing was unwarranted.
 - (5) Section 948.16, Investigation of Cruelty Complaints, and Sec. 948.17, Wis. Stats., Expenses of Investigation, are hereby adopted by reference and made a part of this Chapter.
- (b) **Injured Animals.** No person who owns, harbors or keeps any animal shall fail to provide proper medical attention to such animal when and if such animal becomes sick or injured. In the event the owner of such animal cannot be located, the Village or any animal control agency with whom the Village has an agreement or contract shall have the authority to take custody of such animal for the purpose of providing medical treatment, and the owner thereof shall reimburse the person or organization for the costs of such treatment.

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

SEC. 7-1-18 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 duties shall, within the Village, shoot or kill or commit an act of cruelty to any animal or bird or disturb any bird's nests or bird's eggs.
- (b) **Leading Animal From Motor Vehicle.** No person shall lead any animal upon a Village street from a motor vehicle or from a trailer or semi-trailer drawn by a motor vehicle.
- (c) **Use of Poisonous and Controlled Substances.** No person may expose any pet animal owned by another to any known poisonous substance or controlled substance listed in Sec. 161.14, Wis. Stats., whether mixed with meat or other food or not, where it is reasonable to anticipate the substance may be eaten by such animal or for the purpose of harming the animal. This Subsection shall not apply to poison used on one's own premises and designed for the purpose of rodent and pest extermination, nor the use of a controlled substance used in accepted veterinarian practice or in research by persons or organizations regularly engaged in such research.
- (d) **Use of Certain Devices Prohibited.** No person may directly or indirectly, or by aiding, abetting or permitting the doing thereof either put, place, fasten, use or fix upon or to any animal used or readied for use for a work purpose or for use in an exhibition, competition, rodeo, circus or other performance any of the following devices: a bristle bur, tack bur or like device; or a poling device used to train a horse to jump which is charged with electricity or to which have been affixed nails, tacks or other sharp points.

- (e) **Shooting at Caged or Staked Animals.** No person may instigate, promote, aid or abet as a principal, agent, employee, participant or spectator, or participate in the earnings from or intentionally maintain or allow any place to be used for the shooting, killing or wounding with a firearm or any deadly weapon any animal that is tied, staked out, caged or otherwise intentionally confined in a man-made enclosure, regardless of size.

SEC. 7-1-19 LIMITATION ON NUMBER OF DOGS AND CATS.

- (a) **Purpose.** The keeping of a large number of dogs and cats within the Village of Colfax 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.**
 - (1) No person or family shall own, harbor or keep in its possession more than three (3) dogs and three (3) cats in any residential unit without the prior issuance of a kennel license by the Village Board 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.
 - (2) The above requirement may be waived with the approval of the Village Board when a kennel license has been issued by the Village pursuant to Section 7-1-3(b). Such application for waiver shall first be made to the Village Clerk-Treasurer.

SEC. 7-1-20 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 Colfax to set, place or tend any trap for the purpose of trapping, killing, catching, wounding, worrying or molesting any animal, except by use of live box-type traps only. Live box-type traps shall be defined as those traps which capture and hold an animal in an alive and unharmed condition.
- (b) This Section shall prohibit the use of all traps other than live traps as described above, including, but not limited to, traps commonly known as leg traps, pan-type traps or other traps designed to kill, wound or close upon a portion of the body of an animal.
- (c) All such traps set, placed or tended shall comply with Chapter 29 of the Wisconsin Statutes as they relate to trapping.
- (d) This Section shall not apply to trapping on private property.
- (e) Nothing in this Section shall prohibit or hinder the Village of Colfax or its employees or agents from performing their official duties.

SEC. 7-1-21 KEEPING OF BEES.

- (a) It shall be unlawful for any person to establish or maintain any hive, stand or box where bees are kept or keep any bees in or upon any premises within the corporate limits of the Village unless the bees are kept in accordance with the following provisions:
 - (1) 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.
 - (2) 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.
 - (3) Fresh, clean watering facilities for bees shall be provided on the said premises.
 - (4) The bees and equipment shall be kept in accordance with the provisions of state law.
 - (5) A conditional user permit shall first be obtained pursuant to the Village Zoning Code.
- (b) Nothing in this Section shall be deemed or construed to prohibit the keeping of bees in a hive, stand or box located within a school or university building for the purpose of study or observation.

SEC. 7-1-22 PENALTIES.

- (a) Any person violating Sections 7-1-16, 7-1-17, 7-1-18, 7-1-19, 7-1-20 or 7-1-21 shall be subject to a forfeiture of not less than Fifty Dollars (\$50.00) and not more than Two Hundred Dollars (\$200.00). This Section shall also permit the Village Attorney to apply to the court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating any aspect of this Ordinance.
- (b)
 - (1) Anyone who violates Sections 7-1-1, 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.
- (c) Any person who violates Sections 7-1-6 through 7-1-15 of this Code of Ordinances shall be subject to a forfeiture of not less than Twenty-five Dollars (\$25.00) and not more than One Hundred Dollars (\$100.00) for the first violation and not less than Fifty Dollars (\$50.00) and not more than Two Hundred Dollars (\$200.00) for subsequent violations.

- (d) 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 this Chapter shall pay all expenses including shelter, food, handling and veterinary care necessitated by the enforcement of this Chapter.

CHAPTER 2

Fermented Malt Beverages and Intoxicating Liquor

Article A Fermented Malt Beverages and Intoxicating Liquor

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Article C Penalties

- ## 7-2-40 Penalties

ARTICLE A

Fermented Malt Beverages and Intoxicating Liquor

SEC. 7-2-1 STATE STATUTES ADOPTED.

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

SEC. 7-2-3 LICENSE REQUIRED.

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

SEC. 7-2-4 CLASSES OF LICENSES.

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

- (c) **Class "A" Fermented Malt Beverage Retailer's License.** A Class "A" retailer's fermented malt beverage license, when issued by the Village Clerk-Treasurer under the authority of the Village Board, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only for consumption away from the premises where sold and in the original packages, containers or bottles. Such license may be issued after July 1st. The license shall expire on the following June 30th.
- (d) **Class "B" Fermented Malt Beverage Retailer's License.**
 - (1) License. A Class "B" fermented malt beverage retailer's license, when issued by the Village Clerk-Treasurer under the authority of the Village Board, shall entitle the holder thereof to possess, sell or offer for sale, fermented malt beverages, either to be consumed upon the premises where sold or away from such premises. The holder may also sell beverages containing less than one-half (1/2) of a percentum of alcohol by volume, without obtaining a special license to sell such beverages. Such license may be issued after July 1st. The license shall expire on the following June 30th.
 - (2) Application. Class "B" licenses may be issued to any person qualified under Sec. 125.04(5), Wis. Stats. Such licenses may not be issued to any person acting as agent for or in the employ of another except that this restriction does not apply to a hotel or restaurant which is not a part of or located on the premises of any mercantile establishment, or to a bona fide club, society or lodge that has been in existence for at least six (6) months before the date of application. A Class "B" license for a hotel, restaurant, club, society or lodge may be issued in the name of an officer who shall be personally responsible for compliance with this Chapter. Except as provided in Sec. 125.31, Wis. Stats., Class "B" licenses may not be issued to brewers or fermented malt beverages wholesalers.
- (e) **Temporary Class "B" Fermented Malt Beverage License.**
 - (1) License. As provided in Sec. 125.26(1) and (6), Wis. Stats., temporary Class "B" fermented malt beverage licenses may be issued to bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six (6) months before the date of application and to posts of veterans' organizations authorizing the sale of fermented malt beverages at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. A license issued to a county or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of fermented malt beverages from leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of fermented malt beverages from the stands while the fair is being held. Such license is valid for dates as approved by the Village Board.
 - (2) Application. Application for such license shall be signed by the president or corresponding officer of the society or association making such application and shall be filed with the Village Clerk-Treasurer together with the appropriate license fee for each day for which the license is sought. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a forfeiture of Two Hundred Dollars (\$200.00) and will be ineligible to apply for a temporary Class "B" license for one (1) year. The license shall specify the hours and dates of license validity. The application shall be filed a minimum of fifteen (15) days prior to the meeting of the Village Board at which the application will be

considered. If the application is for a license to be used in a Village park, the applicant shall specify the main point of sale facility.

(f) **Temporary "Class B" Wine License.**

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

(2) **Application.** Application for such 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" 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. If the application is for a license to be used in a Village park, the applicant shall specify the main point of sale facility.

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

(h) **Retail "Class C" Licenses.**

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

(2) A "Class C" license authorizes the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold.

(3) A "Class C" license may be issued to a person qualified under 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 Ten Dollars (\$10.00). The fee for a license for less than twelve (12) months shall be prorated according to the number of months or fraction thereof for which the license is issued.
- (b) **Class "B" Fermented Malt Beverage License.** The annual fee for this license shall be One Hundred Dollars (\$100.00). This license may be issued at any time for six (6) months in any calendar year, for which fifty percent (50%) of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued. The fee for a license for less than twelve (12) months shall be prorated according to the number of months or fraction thereof for which the license is issued.
- (c) **Temporary Class "B" Fermented Malt Beverage License.** The fee for this license shall be Ten Dollars (\$10.00) per event.
- (d) **Temporary "Class B" Wine License.** The fee for this license shall be Ten Dollars (\$10.00) per event. However, there shall be no fee if the Temporary Wine License is obtained along with a Temporary Fermented Malt Beverage License.
- (e) **Fermented Malt Beverage Wholesalers' License.** The annual fee for this license shall be Twenty-five Dollars (\$25.00).
- (f) **"Class A" Intoxicating Liquor Retailer's License.** The annual fee for this license shall be Fifty Dollars (\$50.00).
- (g) **"Class B" Intoxicating Liquor Retailer's License.** The annual fee for this license shall be Four Hundred Dollars (\$400.00). This license may be issued at any time for six (6) months in any calendar year, for which fifty percent (50%) of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued. Pursuant to Sec. 125.10, Wis. Stats., the license fee for the American Legion shall be Fifty Dollars (\$50.00).
- (h) **"Class C" Wine License.** The annual fee for this license shall be Two Hundred Dollars (\$200.00). The fee for less than twelve (12) months shall be prorated.

SEC. 7-2-6 APPLICATION FOR LICENSE.

- (a) **Contents.** Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on the form prescribed by the Wisconsin Department of Revenue and shall be sworn to by the applicant as provided by Secs. 887.01 to 887.04, Wis. Stats., and shall be filed with the Village Clerk-Treasurer not less than fifteen (15) days prior to the granting of such license. The premises shall be physically described to include every room and storage space to be covered by the license, including all rooms not separated by a solid wall or joined by connecting entrances.

- (b) **Corporations.** Such application shall be filed and sworn to by the applicant if an individual, by the president and secretary, of a corporation.
- (c) **Publication.** The Village Clerk-Treasurer shall publish each application for a Class "A", Class "B", "Class A", "Class B", or "Class C" license. There is no publication requirement for temporary Class "B" picnic beer licenses under Sec. 125.26, 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) **License Quotas.** The number of persons and places that may be granted a retail "Class B" liquor license under this Section is limited as provided in Chapter 125, Wis. Stats.

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 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 or permits are issued simultaneously, both are void.
- (h) **Limitations on Other Business; Class "B" Premises.** No Class "B" license or permit may be granted for any premises where any other business is conducted in connection with the premises, except that this restriction does not apply if the premises for which the Class "B" license or permit is issued is connected to premises where other business is conducted by a secondary doorway that serves as a safety exit and is not the primary entrance to the Class "B" premises. No other business may 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 the Chief of Police, Fire Inspector and Building Inspector of each new application, and these officials shall inspect or cause to be inspected each application and the premises, together with such other investigation as shall be necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto, including those governing sanitation in restaurants, and whether the applicant is a proper recipient of a license. These officials shall furnish to the Village Clerk-Treasurer in writing, who shall forward to the Village Board, the information derived from such investigation, accompanied by a recommendation as to whether a license should be granted or refused. 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 granted for operation on any premises or with any equipment for which taxes, assessments, forfeitures or other financial claims of the Village are delinquent and unpaid.
- (b) No license shall be issued unless the premises conform to the sanitary, safety and health requirements of the State Building Code, and the regulations of the State Board of Health and local Board of Health applicable to restaurants. The premises must be properly lighted and ventilated, must be equipped with separate sanitary toilet and lavatory facilities equipped with running water for each sex and must conform to all Ordinances of the Village.
- (c) Consideration for the granting or denial of a license will be based on:
 - (1) Arrest and conviction record of the applicant, subject to the limitations imposed by Secs. 111.321, 111.322, and 111.335, Wis. Stats.;
 - (2) The financial responsibility of the 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 premises to another if such transfer is first approved by the Village Board. An application for transfer shall be made on a form furnished by the Village Clerk-Treasurer. Proceedings for such transfer shall be had in the same form and manner as the original application. The fee for such transfer is Ten Dollars (\$10.00). Whenever a license is transferred, the Village Clerk-Treasurer shall forthwith notify the Wisconsin Department of Revenue of such transfer. In the event of the sale of a business or business premises of the Licensee, the purchaser of such business or business premises must apply to the Village for 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 peace officer of the municipality in which the license was issued. The corporation's license shall not be in force after receipt of such notice or after a regular or special meeting of the Village Board until the successor agent or another qualified agent is appointed and approved by the Village.

SEC. 7-2-12 NUMBERING OF LICENSE.

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

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

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

AN ORDINANCE REGARDING CLOSING HOURS WITH RESPECT TO OFF-SALE LIQUOR LICENSES.

The Village Board of the Village of Colfax, Wisconsin, do ordain as follows:

SECTION 1: Section 7-2-15(b) of the Code of Ordinances for the Village of Colfax is hereby repealed and recreated as follows:

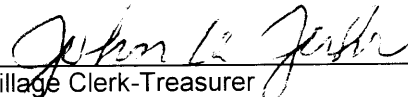
- (b) Carryout Hours. Between 11:00 p.m. and 8:00 a.m., no person may sell, remove, carry out or permit to be removed or carried out from any premises having a "Class A" or Class "A" license, fermented malt beverages or intoxicating liquor in original unopened packages, containers or bottles or for consumption away from the premises.

SECTION 2: This ordinance shall take effect upon passage and publication as required by law.

Adopted: April 26, 2004

Published: May 5, 2004


Village President


Village Clerk-Treasurer

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

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

SEC. 7-2-15 CLOSING HOURS.

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

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 Colfax, 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 without proper identification.
- (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 may be required to furnish a Certificate of Comprehensive General Liability insurance with the Village of Colfax. 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 losing of the licensed premises for at least six (6) months shall be prima facie evidence of the abandonment, unless extended by the Village Board. All persons issued a license to sell alcohol beverages in the Village for which a quota exists limiting the number of such licenses that may be issued by the Village shall cause such business described in such license to be operated on the premises described in such license for at least one hundred fifty (150) days during the terms of such license, unless such license is issued for a term of less than one hundred eighty (180) days, in which event this Subsection shall not apply.
- (c) **License Revocation or Suspension.** License revocation or suspension procedures shall be as prescribed by Chapter 125, Wis. Stats.

SEC. 7-2-18 NON-ALCOHOL EVENTS FOR UNDERAGE PERSONS ON LICENSED PREMISES.

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

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

SEC. 7-2-19 OUTDOOR SPORTS ACTIVITIES REGULATED.

- (a) **Purpose.** The Village Board finds that restrictions are necessary for outdoor 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 activities.
- (b) **Approval Required.** No Licensee shall conduct or sponsor any outdoor sports activity or event on property forming any part of the real property on which the licensed premises exist without the prior approval of the Village Board.
- (c) **Application.** If a Licensee shall conduct or sponsor any outdoor sports activity or event 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 participants and spectators for the proposed activity or event; and
 - (5) The Licensee's plan for maintaining the cleanliness of the licensed area.
- (d) **Time for Filing.** The Licensee shall file the application not less than thirty (30) days before the date of the proposed activity or event. The Village Board may waive the thirty (30) day time limit upon a Licensee's showing of exigent circumstances. The application shall be accompanied by payment of a fee of Ten Dollars (\$10.00) for review of the application.
- (e) **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.
- (f) **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 seventy (70) 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.

- (g) **Maintenance Standards.** 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.
- (h) **Noise.** The Licensee shall not permit the noise level of the activity or event to exceed seventy-five (75) dB, measured at any border of the Licensee's real property.
- (i) **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 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: Secs. 125.17 and 125.32, Wis. Stats.

SEC. 7-2-31 PROCEDURE UPON APPLICATION.

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

SEC. 7-2-32 DURATION.

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

SEC. 7-2-33 OPERATOR'S LICENSE FEE; PROVISIONAL OR LICENSES.

- (a) **Fee.** The fee for an operator's license shall be Five Dollars (\$5.00) for the term or part thereof, plus a Five Dollar (\$5.00) investigation fee. The fee for a provisional license shall be Fifteen Dollars (\$15.00). There shall be no fee for a temporary operator's license.
- (b) **Provisional License.** The Village Clerk-Treasurer may issue provisional operator's licenses in accordance with Sec. 125.17(5), Wis. Stats. The provisional operator's license shall expire sixty (60) days after its issuance or when an operator's license is issued to the holder, whichever is sooner. The Chief of Police shall submit to the Clerk-Treasurer a report regarding the applicant's conviction history, if any. The applicant for such provisional license must present evidence to the Clerk-Treasurer establishing that the applicant is enrolled in an Alcohol Awareness Training Program established pursuant to Sec. 125.17(a), Wis. Stats. 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 successful completion of the approved program, and the applicant shall also apply for a regular operator's license. A provisional license may not be issued to any person who has been denied an operator's license by the Village Board, who has had his operator's license revoked or suspended within the preceding twelve (12) months, or who previously held an operator's license and who failed to complete the Alcohol Awareness Training Program without first successfully completing the program. The Village Clerk-Treasurer shall provide an appropriate application form to be completed in full by the applicant. The Village Clerk-Treasurer may revoke the provisional license issued if he discovers that the holder of the license made a false statement on the application. A provisional license shall not be renewed.
- (c) **Temporary License.** The Clerk-Treasurer may issue a temporary operator's license provided that:
 - (1) This license may be issued only to operators employed by, or donating their services to, nonprofit corporations.
 - (2) No person may hold more than one (1) license of this kind per year.
 - (3) The license is valid for any period from one (1) day to fourteen (14) days, and the period for which it is valid shall be stated on the license.

SEC. 7-2-34 ISSUANCE OR DENIAL OR 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.
- (b) (1) If the application is denied by the Village Board, the Village Clerk-Treasurer shall, in writing, inform the applicant of the denial, the reasons therefore, and of the opportunity to request a reconsideration of the

application by the Village Board in a closed session. Such notice must be sent by registered mail to, or served upon, the applicant at least ten (10) days prior to the Board's reconsideration of the matter. At such reconsideration hearing, the applicant may present evidence and testimony as to why the license should be granted.

- (2) If, upon reconsideration, the Board again denies the application, the Village Clerk-Treasurer shall notify the applicant in writing of the reasons therefore. An applicant who is denied any license upon reconsideration of the matter, may apply to Circuit Court pursuant to Sec. 125.12(2)(d), Wis. Stats., for review.
- (c) (1) Consideration for the granting or denial of a license will be based on:
 - a. Arrest and conviction record of the applicant, subject to the limitations imposed by Secs. 111.321, 111.322, and 111.335, Wis. Stats.;
 - b. The financial responsibility of the applicant;
 - 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 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 be cause for revocation of the license.

SEC. 7-2-38 THROUGH SEC. 7-2-39 RESERVED FOR FUTURE USE.

ARTICLE C

Penalties

SEC. 7-2-40 PENALTIES.

- (a) Forfeitures for violations of Secs. 125.07(1)-(5) and 125.09(2) of the Wisconsin Statutes, adopted by reference in Section 7-2-1 of the Code of Ordinances of the Village of Colfax, 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 Colfax, except as otherwise provided in Subsection (a) herein or who shall conduct any activity or make any sale for which a license is required without a license, shall be subject to a forfeiture as provided in the general penalty section of this Code of the Village of Colfax.
- (c) Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes.

CHAPTER 3

Cigarette Licenses

7-3-1 Cigarette Licenses

SEC. 7-3-1 CIGARETTE LICENSE.

- (a) **License Required.** No person, firm or corporation in the Village of Colfax shall, in any manner, directly or indirectly, upon any premises, or by any device, sell, exchange, barter, dispose of or give away, or keep for sale, any cigarette, cigarette paper or cigarette wrappers, or any substitute therefor, without first obtaining a license as hereinafter provided.
- (b) **Application for License; Fee.** Every person, firm or corporation desiring a license under this Section shall file with the Village Clerk-Treasurer a written application therefor, stating the name of the person and the place for which such license is desired. Each license shall be filed by the Village 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 of Five Dollars (\$5.00).
- (c) **Issuance and Term of License.** Licenses for the sale, exchange, barter, disposition of, or giving away or keeping for sale of cigarette paper or cigarette wrappers or any substitute 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.

CHAPTER 4

Transient Merchants

7-4-1	Registration Required
7-4-2	Definitions
7-4-3	Exemptions
7-4-4	Registration
7-4-5	Investigation
7-4-6	Appeal
7-4-7	Regulation of Transient Merchants
7-4-8	Records
7-4-9	Revocation of Registration
7-4-10	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 Colfax without being registered for that purpose as provided herein.

SEC. 7-4-2 DEFINITIONS.

In this Chapter:

- (a) **Transient Merchant** means 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 a farm auction sale conducted by or for a resident farmer of personal property used on the farm, or the sale of produce or other perishable products at retail or wholesale by a resident of this state.
- (b) **Permanent Merchant** means 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 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** shall mean the Village of Colfax Clerk-Treasurer or Deputy Clerk-Treasurer, or the Chief of Police.
- (f) **Person** shall mean all humans of any age or sex, partnerships, corporations, associations, groups, organizations and any other description of a collection of human beings working in concert or for the same purpose or objective.

SEC. 7-4-3 EXEMPTIONS.

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

- (a) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes;
- (b) Any person selling merchandise at wholesale to dealers in such merchandise;
- (c) Any person selling Wisconsin agricultural products which the person has grown;
- (d) 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) 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) Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer;
- (g) Any person selling or offering for sale a service unconnected with the sale or offering for sale of merchandise;
- (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, 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) 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) Any individual licensed by an examining board as defined in Sec. 15.01(7), Wis. Stats.
- (l) This Chapter does not apply to transient merchants while doing business at special events authorized by the Village Board.
- (m) Minors under eighteen (18) years of age who are residents of the School District.

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 offence 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 registration fee of Ten Dollars (\$10.00) shall be paid to the Village 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) **License; Fees.** Except as provided by Section 7-4-3, no person shall conduct any activity as a transient merchant without a license. Every applicant for a license shall pay a license fee as follows:
 - (1) Annual License. The fee for an annual license shall be Fifty Dollars (\$50.00) which shall be paid to the Village Clerk-Treasurer. Such license shall be for a calendar year and shall expire on December 31 following its issuance, provided however, that the fee shall be one-half (1/2) of the amount stipulated for a calendar year if it is issued on or after July 1 of any year.
 - (2) Daily License. The daily license fee shall be Five Dollars (\$5.00) per day which shall be paid to the Village Clerk-Treasurer. The license shall set forth the exact days on which such business may be carried out.

SEC. 7-4-5 INVESTIGATION.

- (a) Upon receipt of each application, the Village Clerk-Treasurer shall refer it immediately to the Police Department for 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 Secs. 68.07 through 68.16, Wis. Stats.

SEC. 7-4-7 REGULATION OF TRANSIENT MERCHANTS.

- (a) **Prohibited Practices.**
 - (1) A transient merchant shall be prohibited from: calling at any dwelling or other place between the hours of 9:00 p.m. and 8:00 a.m. except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning; calling at the rear door of any dwelling place; or remaining on

- any premises after being asked to leave by the owner, occupant or other person having authority over such premises.
- (2) A 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 visit, his identity or the identity of the organization he represents. A charitable organization transient merchant shall specifically disclose what portion of the sale price of merchandise being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the merchandise.
 - (3) No transient merchant shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.
 - (4) No transient merchant shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a one hundred (100) foot radius of the source.
 - (5) No transient merchant shall allow rubbish or litter to accumulate in or around the area in which he/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/her 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 RECORDS.

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

SEC. 7-4-9 REVOCATION OF REGISTRATION.

- (a) Registration may be revoked by 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. 7-4-10 SPECIAL EVENT VENDING PERMIT.

- (a) **Permit Required.** There shall be a Five Dollar (\$5.00) per day charge 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 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.

CHAPTER 5

Mobile Homes

7-5-1 Monthly Parking Fee; Limitations on Parking

SEC. 7-5-1 MONTHLY PARKING FEE; LIMITATIONS ON PARKING.

- (a) There is hereby imposed on each owner of a nonexempt, occupied mobile home in the Village of Colfax a monthly parking fee as determined in accordance with Sec. 66.058(3) of the Wisconsin Statutes which is hereby adopted by reference and made part of this Chapter as if fully set forth herein. It shall be the full and complete responsibility of the licensee to collect the proper amount from each mobile homeowner. Licensees shall pay to the Village Clerk-Treasurer such parking permit fees on or before the 10th day of the month for which such fees are due in accordance with the terms of this Chapter and such regulations as the Village Clerk-Treasurer may reasonably promulgate.
- (1) Licensees of mobile home parks and owners of land on which are parked any occupied, nonexempt mobile homes shall furnish information to the Village Clerk-Treasurer and Assessor on such homes added to their park or land within five (5) days after arrival of such home on forms furnished by the Village Clerk-Treasurer in accordance with Sec. 66.058(3)(c) and (e) of the Wisconsin Statutes.
 - (2) Occupants or owners of non-exempt mobile homes parked outside of a mobile home park shall remit such fees directly to the Village Clerk-Treasurer as provided in Subsection (a). It shall be the full and complete responsibility of the licensee of a mobile home park to collect such fees from each occupied nonexempt mobile home therein and to remit such fees to the Village Clerk-Treasurer as provided in Subsection (a).
- (b) Owners of nonexempt, occupied mobile homes, upon receipt of notice from the Village Clerk-Treasurer of their liability for the monthly parking permit fee, shall remit to the Village Clerk-Treasurer a cash deposit of Twenty-five Dollars (\$25.00) to guarantee payment of such fees when due to the Village. It shall be the full and complete responsibility of the licensees of a mobile home park to collect such cash deposits from each occupied, nonexempt mobile home therein and to remit such deposits to the Village Clerk-Treasurer. Upon receipt of a notice from the owner or licensee that the nonexempt, occupied mobile home has been or is about to be removed from the Village, the Village Clerk-Treasurer shall apply said cash deposit to reduce any monthly parking permit fees for which said owner is liable and refund the balance, if any, to said owner.
- (c) It shall be unlawful for any person to park any mobile home in the Village of Colfax at any site other than a licensed mobile home park.

State Law Reference: Sec. 66.058 and 70.111(19) Wis. Stats.

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's permit from the Village President or from an official or employee of the Village as designated by the Village Board. No person may use fireworks or a device listed under Subsection (a)(5)-(7) and (9)-(14) while attending a fireworks display for which a permit has been issued to a person listed under Subparagraph (c)(3)a-e or under Subparagraph (c)(3)f if the display is open to the general public.

- (2) Permit Exceptions. Subparagraph (c)(1) above does not apply to:
- a. The Village, except that Village fire and law enforcement officials shall be notified of the proposed use of fireworks at least two (2) days in advance.
 - b. The possession or use of explosives in accordance with rules or general orders of the Wisconsin Department of Industry, Labor and Human Relations.
 - c. The disposal of hazardous substances in accordance with rules adopted by the Wisconsin Department of Natural Resources.
 - d. The possession or use of explosive or combustible materials in any manufacturing process.
 - e. The possession or use of explosive or combustible materials in connection with classes 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.
 - g. An agricultural producer for the protection of crops from predatory birds or animals.
- (4) Crop Protection Signs. A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.
- (5) Bond. The Village President issuing a permit under this Subsection shall require an indemnity bond with good and sufficient sureties or policy of liability insurance for the payment of all claims that may arise by reason of injuries to person or property from the handling, use or discharge of fireworks under the permit. The bond or policy shall be taken in the name of the Village, and any person injured thereby may bring an action on the bond or policy in the person's own name to recover the damage the person has sustained, but the aggregate liability of the surety or insurer to all persons shall not exceed the amount of the bond or policy. The bond or policy, together with a copy of the permit, shall be filed in the officer of the Village.
- (6) Required Information for Permit. A permit under this Subsection shall specify all of the following:
- a. The name and address of the permit holder.
 - b. The date on and after which fireworks may be purchased.
 - c. The kind and quantity of fireworks which may be purchased.
 - d. The date and location of permitted use.
 - e. Other special conditions prescribed by ordinance.
- (7) Copy of Permit. A copy of a permit under this Subsection shall be given to the Fire Chief and Chief of Police 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.

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

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 Clerk-Treasurer may grant a permit for street use, subject to reasonable municipal regulation and control. Therefore, this Chapter is enacted to regulate and control the use of streets pursuant to a Street Use Permit to the end that the health, safety and general welfare of the public and the good order of the Village can be protected and maintained.
- (b) **Application.** A written application for a Street Use Permit by persons or groups desiring the same shall be made on a form provided by the Village Clerk-Treasurer and shall be filed with the Village Clerk-Treasurer. The application shall set forth the following information regarding the proposed street use:
 - (1) The name, address and telephone number of the applicant or applicants.
 - (2) If the proposed street use is to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorizing responsible heads of such organization.
 - (3) The name, address and telephone number of the person or persons who will be responsible for conducting the proposed use of the street.
 - (4) The date and duration of time for which the requested use of the street is proposed to occur.
 - (5) An accurate description of that portion of the street proposed to be used.
 - (6) The approximate number of persons for whom use of the proposed street area is requested.
 - (7) The proposed use, described in detail, for which the Street Use Permit is requested.
- (c) **Representative at Meeting.** The person or representative of the group making application for a Street Use Permit shall be present when the Village Board gives consideration to the granting of said Street Use Permit to provide any additional information which is reasonably necessary to make a fair determination as to whether a permit should be granted.
- (d) **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 Colfax. The applicant may be required to furnish a performance bond prior to being granted the permit.
- (f) **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 Colfax. 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.

CHAPTER 8

Regulation of Nonmetallic Mining

7-8-1	Statutory Provisions Adopted
7-8-2	Definitions
7-8-3	Existing Nonmetallic Mining Operations
7-8-4	Exempt Activities
7-8-5	Permit Required for Nonmetallic Mining
7-8-6	Permit Revocation
7-8-7	Blasting and/or Rock Crushing

SEC. 7-8-1 STATUTORY PROVISIONS ADOPTED.

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

SEC. 7-8-2 DEFINITIONS.

As used in this Chapter:

- (a) **Environmental Pollution.** Has the meaning specified under Sec. 144.01(3), Wis. Stats.
- (b) **Nonmetallic Mining or Nonmetallic Mining Operation.** Operations or activities for the extraction from the earth for sale or use by the operator of mineral aggregates such as stone, sand and gravel, fill material and nonmetallic minerals such as asbestos, beryl, clay, feldspar, peat and talc, related operations or activities such as excavation, grading or dredging if the purpose of those operations or activities is the extraction of mineral aggregates and nonmetallic minerals and related processes such as crushing, screening, scalping, dewatering and blending.
- (c) **Nonmetallic Mining Refuse.** Waste soil, rock, mineral, liquid, vegetation and other waste material resulting from a nonmetallic mining operation. This term does not include merchantable by-products resulting directly from or displaced by the nonmetallic mining operation.
- (d) **Nonmetallic Mining Site or Site.** The location where a nonmetallic mining operation is proposed or conducted, including all surface areas from which materials are removed, related storage and processing areas, areas where nonmetallic mining refuse is deposited and areas disturbed by the nonmetallic mining operation by activities such as the construction or improvement of roads or haulageways.
- (e) **Operator.** Any person who is engaged in a nonmetallic mining operation or nonmetallic mining site reclamation or who applies for or holds a nonmetallic mining permit issued under this nonmetallic mining reclamation ordinance whether individually, jointly or through subsidiaries, agents, employees, contractors or subcontractors.

- (f) **Reclamation.** The rehabilitation of a nonmetallic mining site including, but not limited to, removal of nonmetallic mining refuse, grading of the site, replacement of topsoil, stabilization of soil conditions, establishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution, construction of fences and, if practical, restoration of plant, fish and wildlife habitat.
- (g) **Replacement of Topsoil.** The replacement of the topsoil which was removed or disturbed by a nonmetallic mining operation or the provision of soil which is at least as adequate as the topsoil which was removed or disturbed for the purposes of providing adequate vegetative cover and stabilization of soil conditions.

SEC. 7-8-3 EXISTING NONMETALLIC MINING OPERATIONS.

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

SEC. 7-8-4 EXEMPT ACTIVITIES.

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

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

SEC. 7-8-5 PERMIT REQUIRED FOR NONMETALLIC MINING.

- (a) **Permit Required.** No person shall operate any nonmetallic mining site or operation within the Village unless he obtains a nonmetallic mining permit from the Village Board. The fee for such permit shall be Fifty Dollars (\$50.00), plus any actual Village administrative expenses, payable by certified check. Operators of existing nonmetallic mining operations shall apply for such permit within thirty (30) days of the effective date of this Chapter.
- (b) **Required Permit Information.** An application for a nonmetallic mining permit shall be submitted by the operator and shall include:

- (1) An adequate description of the operation, including a legal description of the property;
 - (2) A plan of the site showing the proposed and existing roads and drives, and the sources, quantity and disposition of water to be used, if any;
 - (3) Estimated dates for completion of the extraction and commencement and completion dates for the reclamation;
 - (4) A reclamation plan and such other information as may be necessary to determine the nature of the operation and the effect on the surrounding area;
 - (5) Methods of screening from adjacent properties;
 - (6) Hours of operation;
 - (7) Dust and noise control;
 - (8) Maximum depth;
 - (9) Blasting procedures;
 - (10) Location and height of stockpiles; and
 - (11) Such other information the Village Board deems pertinent to the operation.
- (c) **Reclamation Plan.** The reclamation plan shall contain adequate provision that:
- (1) All final slopes around the area be flatter than a three (3) to one (1) horizontal slope in a sand, gravel or borrow pit operation, or in a safe angle or repose in a quarrying operation;
 - (2) Excavations below the grade of the nearest abutting public street or highway shall be set back from the street or highway a distance not less than that required for buildings and structures in the same zoning district;
 - (3) Excavations made to a water-producing depth shall be not less than three (3) feet measured from the low water mark;
 - (4) All final slopes shall be covered with adequate topsoil and seeded to prevent erosion;
 - (5) The plan shall require that, after completion of the anticipated operation, the area shall be cleared of all debris and be left in a workmanlike condition, subject to the approval of the Village Board;
 - (6) There is a timetable for completion of various stages of reclamation of the nonmetallic mining site.
- (d) **Applications.** All applications for a license hereunder shall be made in writing upon the written form provided by the Village and distributed by the Village Clerk-Treasurer. All applications for permits hereunder shall be signed by the applicant and filed with the Village Clerk-Treasurer at least sixty (60) days prior to the licensing period. The Clerk-Treasurer shall immediately refer all applications for a license hereunder to the Village Board for public hearing and approval. The operator shall receive written notice of the public hearing. The license shall be for a period of time as stated in the application or as modified by the Village Board. Modification of the application or reclamation plan may be permitted or additional conditions may be required upon application. The Board shall consider the effect of the operation and the proposed reclamation upon existing and future conditions, including streets, neighboring land development, land use drainage, water supply, water pollution, air pollution, soil erosion, natural beauty and land value of the locality. The Village Board may approve, approve conditionally or reject the application and reclamation plan.
- (e) **Financial Assurance.** Before a license and reclamation plan is approved by the Village Board, the operator shall submit an agreement and performance bond or cash escrow agreement to assure the following:
- (1) The operator shall pay for the cost of all improvements required in the reclamation plan by the Village Board.

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

SEC. 7-8-6 PERMIT REVOCATION.

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

SEC. 7-8-7 BLASTING AND/OR ROCK CRUSHING.

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

- (b) **Operation.** No person within the Village shall operate a rock crusher or perform blasting in such a manner so that any dust, dirt or vibration from such operation shall, in any way, damage or injure any person or property within the Village. All blasting within the Village shall be performed according to the requirements of Ch. IND 5, Explosives and Blasting Agents, Wis. Adm. Code, and all subsequent amendments thereto.
- (c) **Permit.**
- (1) Permit Required. No person within the Village shall operate a rock crusher or perform blasting who does not possess a proper permit therefor from the Village.
 - (2) Applications. All applications for permits hereunder shall be made in writing upon the written form provided by the Village and distributed by the Village Clerk-Treasurer. All applications for permits hereunder shall be signed by the applicant and filed with the Village Clerk-Treasurer at least sixty (60) days prior to the licensing period. The Village Clerk-Treasurer shall immediately refer all applications for permits hereunder to the Village Engineer. The Village Clerk-Treasurer shall issue a permit hereunder only after first receiving the recommendation of the Village Engineer, the duly executed certified check for the permit fee as hereinafter provided and the submittal of the Plan of Operation, if required, as approved by the Village Engineer.
 - (3) Certified Check. Each application for a permit hereunder shall be accompanied by a certified check in the sum of the required permit fee as hereinafter provided, or a renewal thereof, the same to be payable to the Village.
 - (4) Plan of Operation. Each application to permit a rock crusher hereunder or renewal thereof shall be accompanied by a Plan of Operation which shall include: methods of screening from adjacent properties, hours of operation, hours of blasting and operation of rock crusher, dust and noise control, blasting procedures, location and height of stock piles, whether a rock crusher will be needed and how often, water supply, drainage course, maximum depth, legal description of property in question and other information the Village Engineer deems pertinent to the proposed operation. Such Plan of Reorganization shall be approved by the Village Engineer.
 - (5) Insurance. Each application for a blasting permit shall be accompanied by a Certificate of Insurance identifying the Village of Colfax as a party insured in the amount of Five Hundred Thousand Dollars (\$500,000.00) for damage to property, and Five Hundred Thousand Dollars (\$500,000.00) for injury to one (1) person and One Million Dollars (\$1,000,000.00) for injury to more than one (1) person caused by the blasting.
- (d) **Renewals.** All requests for renewals of permits hereunder shall be made at least sixty (60) days prior to the expiration date of the permit and must comply with all requirements of Subsection (c) above.
- (e) **Blasting Procedures and Controls.**
- (1) Energy Ratio. The allowable vibration of any blast at the nearest occupied or used building off the subject premises shall not exceed an energy ratio of 0.5 or resultant particle velocity of 1.35" per second based on the following formula:

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

Energy ratio = .274 V² (V = resultant particles velocity expressed in inches per second)

- (2) Measurement of Blasts. The operator of the quarry operation, when requested to do so by the Village Engineer, shall measure and submit data to substantiate compliance with the above formula and the operator of the quarry operation, when requested to do so by the Village Engineer, shall measure air blast. This verification shall be performed by a seismological engineering firm acceptable to the Village or by the Village Engineer. Instrumentation shall be by seismograph similar to VME Seismolog Model "B" and approved seismograph sound measuring equipment or approved equivalents. All expenses for these tests shall be paid by the quarry operator.
- (3) Blasting Log. A log in duplicate shall be kept of each blast on forms similar to the one on file with the Village Clerk-Treasurer. The original copy of this blasting log shall be filed with the Clerk-Treasurer within forty-eight (48) hours after the blast, and a copy shall be kept on file at the quarry office.
- (4) Cover Material. Operators of quarries for building and/or ornamental stone removal shall cover Primacord, other detonating cord or surface-laid blasting devices with at least one foot (1') of dirt or other suitable cover material.
- (f) **Permit Fee.** The permit fee for any permit issued pursuant to this Section shall be as set forth below. No permit fee shall be prorated. All permits issued hereunder shall expire on December 31 following the date of issue:
 - (1) Quarries using blasting to supply buildings and/or ornamental stone: Ten Dollars (\$10.00) per blasting period.
 - (2) Gravel crushing operations using portable or fixed crushing equipment less than thirty (30) days per year: Ten Dollars (\$10.00) per year.
- (g) **Penalty.** Any person who shall violate any of the provisions of this Section shall be subject to a penalty as provided in Section 1-1-6 of this Code of Ordinances. However, upon conviction for the violation of any of the provisions of this Section by the holder of a permit issued hereunder, and in addition to the forfeiture provided, such permit shall thereupon be cancelled, revoked, rescinded and terminated.
- (h) **Enforcement.** Before renewal of any license issued under this Section is refused or any license is revoked, cancelled, rescinded or terminated, the licensee shall be given written notice of any charges or violations against him or the reasons proposed for nonrenewal or revocation and shall have an opportunity to be heard before the Village Board.

CHAPTER 9

Licensees to Pay Local Claims; Appellate Procedures

- 7-9-1 Licensees Required To Pay Local Taxes, Assessments
and Claims; Appellate Procedures
- 7-9-2 Issuance of Licenses

SEC. 7-9-1 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 Colfax:
 - (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 nonrenewal 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.

SEC. 7-9-2 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 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.