

**Village of Weston, Wisconsin
AGENDA ITEM COVERSHEET
Requested for Official Consideration and Review**

REQUEST FROM: JENNIFER HIGGINS; DIRECTOR OF PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: ORDINANCE NO. 16-023 AN ORDINANCE REPEALING CHAPTER 18 OF THE CODE OF ORDINANCES OF THE VILLAGE OF WESTON ENTITLED "BUSINESSES" AND AMENDING AND RECREATING THE SAME.

DATE/MTG: BOARD OF TRUSTEES; MONDAY, APRIL 18, 2016

POLICY QUESTION: Should the Village of Weston pursue an ordinance to include mobile food vending units as part of the zoning and licensing codes, which allows for their operation within the confines as the draft ordinance is written.

RECOMMENDATION TO: I make a motion to approve Ordinance No. 16-0023.

LEGISLATIVE ACTION:

- | | | |
|---|---|---------------------------------------|
| <input checked="" type="checkbox"/> Acknowledge/Approve | <input checked="" type="checkbox"/> Ordinance | <input type="checkbox"/> Proclamation |
| <input type="checkbox"/> Administrative Order | <input type="checkbox"/> Policy | <input type="checkbox"/> Reports |
| <input type="checkbox"/> Expenditure | <input type="checkbox"/> Procedure | <input type="checkbox"/> Resolution |
-

FISCAL IMPACT ANALYSIS:

- Budget Line Item: None
- Budget Line Item: _____
- Budgeted Expenditure: _____
- Budgeted Revenue: _____
-

STATUTORY / RULEMAKING / POLICY REFERENCES:

- WI Statute: _____
- WI Administrative Code: _____
- Case Law / Legal: _____
- Municipal Code: DRAFT: 94.4.10(13) and 18.148
- Municipal Rules: _____
-

PRIOR REVIEW: PC and ETZ review at March 14, 2016 and April 11, 2016 (public hearing) Meetings

BACKGROUND: Last year, staff was approached by several people wanting to operate a mobile food vending unit within the Village. This has become an increasingly popular food option for people around Central Wisconsin. To be pro-business, staff moved forward with compiling a draft ordinance to allow for such a use within the Village. It is important that the Village allows for these uses, as for many of these small business owners it is a stepping stone to owning and operating their own restaurant. If and when they choose to make that big step, staff hopes that with by welcoming this use in the Village the business owner would choose Weston for their brick and mortar location. Please note that if the Board chooses to approve this ordinance, they will also need to approve Ord. No. 16-021 Sec. 94.4.10(13) Mobile Food Vendors as both chapters 94 and 18 contain regulations for the vendors. The entire Chapter 18 is being repealed and recreated as this chapter is one of the last ordinances to be updated as part of the project Trustee White and Clerk Weinkauff and myself have been working on.

Attachments: Ordinance No. 16-023.



VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN

ORDINANCE NO. 16-023

AN ORDINANCE REPEALING CHAPTER 18 OF THE CODE OF ORDINANCES OF THE VILLAGE OF WESTON ENTITLED “BUSINESSES” AND AMENDING AND RECREATING THE SAME.

The Village Board of the Village of Weston, Marathon County, Wisconsin, do ordain as follows:

SECTION 1: Chapter 18 Businesses of the Village of Weston Municipal Code is hereby repealed, amended and recreated to provide as follows:

CHAPTER 18 BUSINESSES

ARTICLE I. IN GENERAL

Sec. 18.100. Licenses and fees.

No person shall engage in any business, occupation or profession for which a license is required by the village without first obtaining a license established in the village schedule of licenses and fees and payment of the required fees.

Sec. 18.101. Revocation of license.

All licenses provided for in this chapter may be revoked by the village for good cause and satisfactory proof being shown, with all of the operations at such licensed business being terminated and closed down immediately, upon revocation of its license.

(Code 1982, § 5.06)

Sec. 18.102. Penalties.

Any person violating any of the provisions of this chapter shall, upon conviction, be subject to Section 1.111, plus the license fee provided.

(Code 1982, § 5.07. Amended via Ord. 15-013, 06-17-2015)

ARTICLE II. ADULT-ORIENTED ESTABLISHMENTS*

DIVISION 1. GENERALLY

Sec. 18.103. Purpose.

It is a lawful purpose of the board to enact regulatory ordinances protecting and promoting the general welfare, health and safety of its citizens. The board deems it necessary to require licensing and regulation of adult-oriented establishments, namely, adult bookstores, because many such establishments install booths with doors in which patrons can view adult-oriented movies or videotapes or film, or view other forms of adult entertainment. It has been found in many localities that viewing booths in such establishments are used by patrons for engaging in sexual acts, particularly between males, which results in unsafe and unsanitary conditions in the booths.

* **Cross References**--Use of Alcohol Beverages in Adult Entertainment Establishments, Alcohol Beverages Chapter. 6 Section. 6.106.

Pathogenic agents responsible for sexually transmitted diseases have all been isolated at one time or another from body fluids, which have been found to be frequently present in viewing booths in adult-oriented bookstores. It is thereby necessary for the board to regulate adult-oriented bookstores for the protection of the public health, safety and welfare.

(Ord. of 5-17-1993, § 1(1))

Sec. 18.104. Definitions.

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

Adult entertainment means any exhibition of any motion pictures, live performance, display or dance of any type, which has as its dominant theme, or is distinguished or characterized by an emphasis on, any actual or simulated specific sexual activities or specified anatomical areas, or the removal of articles of clothing to appear totally nude or to display a nude genital area or female nude breasts.

Adult-oriented establishment means an adult bookstore having as its stock in trade, for sale, rent, lease, inspection or viewing, books, films, videocassettes, magazines or other periodicals that are distinguished or characterized by their emphasis on matters depicting, describing or relating to specific sexual activities or specific anatomical areas, and in conjunction therewith have facilities for the presentation of adult-oriented films, movies or live performances, for observation by patrons.

Health department means the county health department, health officers, or his/her designee or authorized agent.

Operator means any person operating, conducting, maintaining or owning any adult-oriented establishment.

Specified anatomical areas means:

- (1) Less than completely and opaquely covered human genitals, pubic region,

anus or the areola of a female breast; or

- (2) Human male genitalia in a discernible turgid state, even if opaquely covered.

Specified sexual activities means simulated or actual:

- (1) Showing of human genitals in a state of sexual stimulation or arousal; or
- (2) Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochist abuse, fellatio or cunnilingus; or
- (3) Fondling or erotic touching of human genitals, pubic region, anus or female breasts.

(Ord. of 5-17-1993, § 1(2); Amended via Ord. 15-013, 06-17-2015)

Cross References--Definitions generally, § 1.101.

Sec. 18.105. Penalty.

Any person who shall violate any of the provisions of this article shall upon conviction be subject to section 1.111.

(Ord. of 5-17-1993, § 1(12))

Sec. 18.106. Physical layout of premises.

No adult-oriented establishment shall have available for customers, patrons or members any booth, room or cubicle for the private viewing of any adult entertainment unless the following requirements are complied with:

- (1) Each booth, room or cubicle shall:
 - a. Be separated from adjacent booths, rooms or cubicles and any nonpublic areas by a wall;
 - b. Have at least one side totally open to a public, lighted aisle so that there is an unobstructed view at all times of anyone occupying the booth, room or cubicle;
 - c. Have solid, unbreakable walls without any openings, extended from the floor to a height of not less than six feet, and shall be light colored, with a nonabsorbent, smooth textured and easily cleanable surface;
 - d. Have a light-colored, nonabsorbent, smooth-textured and easily cleanable floor;
 - e. Have at all times when not in use a minimum lighting level of ten foot-candles as measured three feet above the floor.

(2) Only one individual shall occupy a booth, room or cubicle at any time.

(3) The operator shall ensure there is conspicuously posted inside each booth, stall, partitioned portion of a room, or individual room an un-mutilated and un-defaced sign or poster supplied by the health department, which contains information regarding sexually transmitted diseases and the telephone numbers from which additional information can be sought.

(4) The operator shall ensure that there is conspicuously displayed at a place near the main entrance of the establishment any information, brochures or pamphlets supplied by the health department pertaining to sexually transmitted diseases.

(5) The operator shall ensure there is posted regulations concerning booth occupancy on signs with lettering at least one inch high that are placed in conspicuous areas of the establishment and in each of the viewing enclosures.

(Ord. of 5-17-1993, § 1(10))

Sec. 18.107. Prohibitions.

(a) No person while occupying a booth, room or cubicle or any public area of an establishment licensed under this article shall engage in any type of specified sexual activity, nor shall any such person cause any bodily discharge or litter while in such a booth, room or cubicle. No person shall damage or deface any portion of the booth while occupying that booth.

(b) No operator of an adult-oriented establishment shall permit more than one person to occupy a booth, room or cubicle as described in Sec. 18.106 at any time.

(c) No operator shall permit a minor to be in and/or loiter around an establishment licensed under this article or allow a minor to view adult entertainment in such an establishment.

(d) The operator shall maintain the adult-oriented establishment in a clean and sanitary condition at all times. The operator shall submit a fixed cleaning and sanitizing schedule to the health department for approval and, once approved, adhere to that schedule. All employees and operators shall be required to wear impermeable rubber gloves while engaged in the cleaning and sanitation of the booths.

(e) The operator shall maintain a current list of all employees who work on the premises. Such list shall contain the name, current address, date of birth, sex, telephone number, social security number, position of each employee, and date of employment and termination and such list shall be furnished to any police officer immediately upon request.

(f) Every act or omission by an employee constituting a violation of the provisions of this article shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct; and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(g) Every act or omission by an employee constituting a violation of the provisions of this article shall be deemed the act or omission of the operator for the purposes of determining whether the operator's license shall be revoked, suspended or renewed.

(h) No employee of an adult-oriented establishment shall allow any minor to loiter around or to frequent an adult-oriented establishment, or to allow any minor to view sexually oriented adult entertainment.

(i) The operator shall ensure compliance of the establishment and its patrons with the provisions of this article.

(Ord. of 5-17-1993, § 1(11))

DIVISION 2. LICENSE

Sec. 18.108. Required.

(a) No person shall operate, conduct, maintain or own an adult-oriented establishment without first obtaining an adult-oriented establishment license. Licenses may be issued only to adult-oriented establishments that are located at a fixed and certain place. Any person who desires to operate more than one adult-oriented establishment must have a license for each.

(b) No license issued under this article may be transferred to any person nor shall such a license be transferred to another location.

(Ord. of 5-17-1993, § 1(3))

Sec. 18.109. Application.

(a) Application for a license required by this division shall be made to the village clerk/treasurer. A copy of the application shall be forwarded to the chief of police and the health department for review and recommendation, including review of arrest/conviction records and corporate ownership. The application shall be made upon a form provided by the village clerk/treasurer and shall contain the following information under oath:

- (1) The applicant's full name and address;
- (2) Written evidence that the applicant is at least 18 years of age;
- (3) The address and description of the location of the proposed adult-oriented establishment; and
- (4) If the applicant is a corporation, the name of the corporation, the date and state of incorporation, the name and address of the registered agents of the corporation, and the name and address of all persons owning stock in the corporation, and the name, address, age and position of all officers and directors of the applicant corporation.

(b) An amended application form shall be filed by any corporate licensee upon

any change of officer, director or agent. Such amended application shall be reviewed in the same manner as a new application. A fee provided in the village fee schedule shall be paid to the village upon submission of an amended application.

(Ord. of 5-17-1993, § 1(4))

Sec. 18.110. Standards for issuance.

The board shall review all applications received under this division within 30 days after their filing and shall consider the review and recommendations of the chief of police and health department. In recommending action on issuance or non-issuance of such licenses, the board shall consider the probable impact of the location of the proposed business in the area proposed to be licensed, the fitness of the applicant to operate such an establishment, and the history of the operation of the establishment. In addition, the following requirements must be met:

(1) An individual applicant must be at least 18 years of age and must not have been found to have violated this article or a similar law or ordinance within five years immediately preceding the date of application.

(2) All officers, directors and stockholders of a corporate applicant must be at least 18 years of age; and no officer, director or shareholder must have been found to have violated this article or similar law or ordinance within five years preceding the date of application. An applicant which is a partnership, joint venture or other type of organization where two or more persons have a financial interest must demonstrate that no person is less than 18 years of age, and no person must have been found to have violated any provision of this article or a similar law or ordinance within five years immediately preceding the date of the application.

(3) Within 60 days of receiving an application for a license, the village clerk/treasurer shall notify the applicant in writing whether the applications have been granted or denied by the board and if denied, the reason for the denial. Judicial review of denials of applications by the board under this section shall be as provided in Wis. Stat. § 68.13.

(Ord. of 5-17-1993, § 1(5))

Sec. 18.111. Fee.

A license fee provided in the village fee schedule shall be submitted with the application for a license. If the application is denied, half the fee shall be retained as a processing fee and the balance shall be returned to the applicant. No fees shall be prorated except upon such denial. No later than three months after the close of each fiscal year, the village clerk/treasurer shall reimburse the health department 20 percent of each permit fee charged under this section. If an application is denied, reimbursement shall not be made to the health department.

(Ord. of 5-17-1993, § 1(6))

Sec. 18.112. Display.

The licensee shall prominently display the license issued under this division in a conspicuous public place in the licensed premises.

(Ord. of 5-17-1993, § 1(7))

Sec. 18.113. Term.

All licenses issued under this division shall expire on June 30 each year unless sooner revoked. A new application shall be made each year, and renewal applications must be filed not later than April 30. A renewal application shall contain the same information and data, given under oath, as is required for an application for a new license. A late processing fee set by the board in the village fee schedule shall be paid with any renewal application made following April 30 of any year. If the application is denied, no portion of the late processing fee shall be refunded.

(Ord. of 5-17-1993, § 1(8))

Sec. 18.114. Revocation or suspension.

(a) **Hearing.** The board may hold a hearing to determine whether a license granted under this division should be suspended or revoked:

(1) If a licensee or a licensee's agent or any of a licensee's officers, directors or shareholders is convicted of an offense which reasonably relates to the licensed operation under this division;

(2) The discovery that false, misleading information or data was provided on any application, or material facts were omitted from any application;

(3) The licensee has failed to comply with an order issued under subsection (d) or (e) of this section;

(4) Any cost or fee required to be paid by this article is not paid; or

(5) Any intoxicating liquor or fermented malt beverage is served or consumed on the premises of the licensed establishment.

(b) **Notice.** Notice of such hearing and the grounds for the hearing shall be provided to any such person, who shall be advised of the time and place of the hearing, of the right to call, examine and cross-examine witnesses, and to have the proceedings recorded at the person's own expense. Such license may be suspended for a period of 60 days or revoked if the board determines that the public interest so requires. The licensee shall be given at least ten days' written notice of the charges prior to the public hearing. The transfer of a license or any interest in a license shall automatically and immediately revoke such license. Any person whose license is revoked shall not be eligible to receive another license for a period of one year from the date of the revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for 12 months from the date of the revocation of the license. Judicial review shall be as provided in Wis.

Stat. § [68.13](#).

(c) *Access.* Authorized employees or agents of the chief of police or health department, upon presenting proper identification, shall be permitted to enter any adult-oriented establishment at any reasonable time for the purpose of inspection to determine compliance.

(d) *Enforcement.* If upon inspection of an adult-oriented establishment by an authorized employee or agent of the chief of police or health department, it is found that the establishment is not operated or maintained as required by this article, the employee or agent shall notify the operator in writing. The order shall specify the changes required to make the establishment conform to the standards established in this article, and the time period compliance shall take place.

(e) *Immediate danger to health.* Where there is a reasonable cause to believe that any construction, sanitary condition, operation or method of operation of the premises of an establishment or equipment used on the premises creates an immediate danger to health, an authorized employee or agent of the health department may, without advance written notice, issue an order to remove the immediate danger to health. That order shall take effect on delivery to the operator or other person in charge of the establishment. The order shall be limited to prohibiting the continued operation, use or methods of operation, or a combination of these; except if a more limited order would not remove the immediate danger to health, the order may direct that all operations authorized by the permit cease.

(Ord. of 5-17-1993, § 1(9))

ARTICLE III. EMERGENCY ALARM SYSTEMS*

Sec. 18.115. Purpose.

It is the purpose of this article to minimize the amount of time and effort to the Everest Metro Police Department in responding to false alarms and to provide for a more efficient operation of this service provided by the village emergency services.

(Ord. of 7-31-1989, § 1(1)., Ord. of 3-6-13)

* **Cross References**--Civil Emergencies, Chapter 22; Fire Prevention and Protection, Chapter 34; Law Enforcement, Chapter 42.

State Law References--Burglar alarm installers, Wis. Stats. §§ [111.335](#), [134.59](#).

Sec. 18.116. Applicability.

This article shall be applicable to all alarm systems users within the village that come within the jurisdiction of the Everest Metro Police Department. Alarm systems that come within the jurisdiction of the Everest Metro Police Department are both alarms that terminate at the Marathon County Dispatch Center and those systems that are monitored by other agencies/companies (alarm system operators) that may require the Everest Metro Police Department to respond to the alarm.

(Ord. of 7-31-1989, § 1(2) Ord. of 3-6-13)

Sec. 18.117. Definitions.

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

Alarm system - means any device designed for the detection of an unauthorized entry onto premises or for alerting others of the commission of an unlawful act or both, or for the detection of a fire which, when activated, produces a signal, visual or audible, or both, where the intended result of such signal being transmitted would be response by law enforcement or other public safety personnel.

Alarm system operators - means any person in the business of operating a receiving device designed for the detection of an unauthorized entry on premises or for alerting others to the commission of an unlawful act, or both, or for the detection of a fire which, when activated, produces a signal, visible or audible, or both, which signal is caused to be transmitted to the operator of the alarm system, who in turn by telephone or other means transmits any information to the Everest Metro Police Department.

Alarm user - means any person having an alarm system, including individuals, partnerships, associations and/or corporate bodies.

False alarm - means any of the following:

(1) The intentional or unintentional activation of an alarm system by the owner or the lessee of an alarm system or an employee or agent of either under circumstances where there is no unauthorized entry or fire upon the premises or reasonable grounds for belief that such events have occurred or are occurring.

(2) The activation of an alarm system or mechanical failure or malfunction because of improper maintenance of the alarm system.

(3) The activation of an alarm because of improper installation and/or use of equipment.

Subsections (1) through (3) of this definition do not include false alarms caused by abnormal weather conditions, acts of God or by prior arrangement made for testing of an alarm system.

Self-contained alarm system - means any device designed for the detection of unauthorized entry on the premises or for alerting others of the commission of an unlawful act, or both, or for the detection of a fire, which, when activated, produces a signal, visible or audible, or both, which signal is caused to be transmitted to the general area surrounding the premises so as to give notice to the general public.

(Ord. of 7-31-1989, § 1(3), Ord. of 3-6-13)

Cross References--Definitions generally, § 1.101.

Sec. 18.118. False Alarm Fee.

(a) Any Signal, message or other communication transmitted by an alarm system which causes a response by the Everest Metro Police Department and is determined to be a false alarm shall result in the alarm user or agent paying a fee in accordance with the schedule in subsection (b) of this section. Any fees payable to the police department which are delinquent may be assessed against the property involved as a special charge for current service, without notice, pursuant to Wis. Stat. § 66.0627.

(b) The user of any private alarm system shall pay the Everest Metro Police Department a fee according to the following schedule of fees for any false alarm occurring in a moving 12-month period:

(1) For the first false alarm, there is no charge, but the user or his/her agent shall be given a verbal warning.

(2) For the second false alarm, the user or his/her agent shall receive an administrative warning in writing from the police department.

(3) For the third false alarm, the user or his/her agent shall be subject to a fee of \$50.00.

(4) For the fourth false alarm, the user or his/her agent shall be subject to a fee of \$100.00.

(5) For the fifth and subsequent alarms, the user or his/her agent shall be subject to a fee of \$150.00.

(Ord. of 7-31-1989, § 1(10), Ord. of 3-6-13)

Sec. 18.119. Response to emergency services alarms.

The installation and/or operation of an alarm system shall not give rise to any cause of action or claim against the village or any of the village's agents, servants or employees. The village shall be under no duty or obligation to any person having an alarm system for any defects or deficiencies in the system or any delays in response or transmission of the alarm for any other reason.

(Ord. of 7-31-1989, § 1(9))

ARTICLE IV. DIRECT SALES/TEMPORARY EVENTS*

Sec. 18.120 Registration required.

It shall be unlawful for any direct seller, solicitor or person to engage in direct sales,

solicitations or hold temporary events within the Village of Weston without being registered and issued a permit for that purpose as provided herein.

Sec. 18.121 Definitions.

In this chapter, the following terms shall have the meanings indicated:

Charitable Organization - Any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation for which there is provided proof of tax exempt status pursuant to United States Internal Revenue Code Sections 501(c)(3) or (4).

Direct Seller Employee - Any individual who, for him/herself or for a partnership, association or corporation, sells goods, or takes sales orders for the later delivery of goods, at any location other than the permanent business place or residence of said individual, partnership, association or corporation and shall include but not be limited to peddlers and transient merchants. The sale of goods includes donations required by the direct seller for the retention of goods by a donor or prospective customer.

Direct Seller Business - Any individual, partnership, corporation or business entity of any type whatsoever, which employs direct sellers as defined above either on a full-time, part-time or commission basis and is not a permanent merchant as defined in this section.

Goods - Includes personal property of any kind and shall include goods provided incidental to services offered or sold.

Permanent Merchant - A direct seller who, for at least one year prior to the consideration of the application of this chapter to said merchant, has continuously operated an established place of business in this Village or has continuously resided in this Village and now does business from his/her residence.

Police Department - Everest Metro Police Department.

Solicitor - Any individual who, for him/herself or for any other person, organization, society, association or corporation, personally solicits money, property or financial assistance of any kind from persons other than members of such organization, society, association or corporation.

Temporary Events - carnivals, sports activities over public ways, church bazaars, charity fundraisers and revival meetings which are not detrimental to the public health, safety, comfort, morals, convenience or general welfare provided the use or operation and any incidental temporary structures or tents are in conformance with all other ordinances and codes of the village.

Sec. 18.122 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 goods at wholesale to dealers in such goods.
- (c) Any permanent merchant or employee thereof who takes orders away from the established place of business for goods regularly offered for sale by such merchant within this county and who delivers such goods in his/her regular course of business.
- (d) Any person who has an established place of business where the goods being sold are offered for sale on a regular basis and in which the buyer has initiated contact with and specifically requested a home visit by said person.
- (e) 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.
- (f) Any person selling or offering for sale a service unconnected with the sale or offering for sale of goods.
- (g) 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.
- (h) Any employee, officer or agent of a charitable organization who engages in direct sales or solicitation for or on behalf of said organization, provided that there is submitted to the Police Department proof that such charitable organization is registered under Wis, Stat, § [202.12](#). Any charitable organization not registered under Wis. Stat. § [202.12](#), or which is exempt from that statute's registration requirements shall be required to register under this chapter.
- (i) Any person who claims to be a permanent merchant but against whom complaint has been made to the Police Department that such person is a transient merchant, provided that there is submitted to the Police Department proof that such person has leased for at least one 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 year prior to the date complaint was made.
- (j) Any resident of the Village of Weston under age 18. (Permitted exceptions include scouting organizations, sport teams, etc.)

Sec. 18.123 Registration and Permit procedure.

(a) Direct seller (employee) and Direct Seller (Business) must complete all registration requirements with the Village Clerk no less than thirty days prior to commencing any and all selling activities in the Village of Weston. Registration shall include the following information:

(1) Direct Seller (Business):

a. Business name, permanent address, telephone number, name of business contact person, contact person's date of birth, driver's license or identification number and issuing state;

b. Nature of business to be conducted and a brief description of the goods

offered, and any services offered;

- c. Proposed method of delivery of goods, if applicable;
- d. Total number of employees selling during business operations covered by this license;
- e. Dollar value of most expensive merchandise or service offered;
- f. Dates in which selling activity shall occur;
- g. Names of cities, villages and towns, not to exceed three, where business has conducted similar business just prior to making this registration;
- h. Place where business contact person can be personally contacted for at least sixty days after leaving this city;

(2) Direct Seller (Employees):

- a. Name, permanent address and telephone number, and temporary address, if any.
- b. Date of Birth, driver's license or identification number, issuing state, height, weight, and color of hair and eyes.
- c. Name, address and telephone number of the person, firm, association or corporation that the direct seller or solicitor represents or is employed by or whose merchandise is being sold.
- d. Location address and telephone number from which business will be conducted, if any, and written permission from the owner of the property for the applicant to conduct business on the property, which statement shall be submitted with the registration form.
- e. Nature of business to be conducted and a brief description of the goods offered and any services offered, if applicable.
- f. Proposed method of delivery of goods, if applicable.
- g. Make, model and license number of any vehicle to be used by the applicant in the conduct of his/her business.
- h. Last cities, villages, towns, not to exceed three, where the applicant conducted similar business.
- i. Place where the applicant can be contacted for at least seven days after leaving this Village.
- j. Statements as to whether the applicant has been convicted of any crime or ordinance violation related to applicant's business within the last five years, the nature of the offense and the place of conviction.

k. Dates in which selling activity will occur.

(b) Applicants shall present to the Village Clerk:

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 the applicant's business requires use of weighing and measuring devices approved by state authorities.

3. A state health officer's certificate where the applicant's business involves the handling of food or clothing and is required to be certified under state law, such certificate to state that the applicant is apparently free from any contagious or infectious disease, dated not more than 90 days prior to the date the application for registration is made.

(c) At the time the registration is returned, a fee as set by the Village Board shall be paid to the Village Clerk to cover the cost of processing said registration.

(d) The applicant shall sign a statement appointing the Village Clerk 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 or soliciting activities of the applicant, in the event the applicant cannot, after reasonable effort, be served personally.

(e) Upon payment of said fee and the signing of said statement, the Village Clerk shall register the applicant as a direct seller or solicitor and date the entry. Said registration shall be valid for a period of one calendar year from the date of entry, subject to subsequent refusal as provided below.

Sec. 18.124 Investigation.

(a) Upon receipt of each application, the Police Department shall make and complete an investigation of the statements made in such registration.

(b) The Police Chief shall refuse to register the applicant if it is determined, pursuant to the investigation above, that:

(1) The application contains any material omission or materially inaccurate statement;

(2) Complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns, not exceeding three, in which the applicant conducted similar business;

(3) In the case of application for registration as a direct seller, the applicant was convicted of a crime, statutory violation or ordinance violation within the last five years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or

(4) The applicant failed to comply with any applicable provision under the Registration procedure above.

(c) The Zoning Administrator may refuse the application if the "direct sales" violates the zoning code in any way.

Sec. 18.125 Appeals.

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 Wis. Stats. §§ 68.07 through 68.16.

Sec. 18.126 Prohibited practices; disclosure requirements.

(a) Prohibited practices.

(1) Direct sellers and solicitors shall be prohibited from calling at any dwelling or other place between the hours of 6:00 p.m. and 9:00 a.m., except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning; calling at the rear door of any dwelling place; or remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.

(2) A direct seller shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any goods offered for sale, the purpose of his/her visit, his/her identity or the identity of the organization he/she represents. A charitable organization direct seller shall specifically disclose what portion of the sale price of goods being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as percentage of the sale price of the goods.

(3) No direct seller shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.

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

(5) No direct seller 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 direct seller shall expressly disclose his/her name, the name of the company or organization he/she is affiliated with, if any, and the identity of goods or services he/she offers to sell.

(2) If any sale of goods is made by a direct seller, or any sales order for the later delivery of goods is taken by the seller, the buyer shall have the right to cancel said transaction if it involves the extension of credit or is a cash transaction of more than \$25, in

accordance with the procedure as set forth in Wis. Stat. § [423.203](#), . The seller shall give the buyer two copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of Wis. Stats. §§ [423.203\(1\)\(a\)](#), [\(b\)](#) and [\(c\)](#), [\(2\)](#) and [\(3\)](#). If the direct seller takes a sales order for the later delivery of goods, 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. 18.127 Records.

The Police Department shall keep records of all convictions for violation of this chapter and note any such violation on the record of the registrant convicted.

Sec. 18.128 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 or solicitations, violated any provision of this chapter or, in the case of direct sellers, 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 on the registrant at least 72 hours prior to the time set for the hearing. Such notice shall contain the time and place of hearing and a statement of the acts upon which the hearing will be based.

Sec. 18.129 Violations and penalties.

Any person convicted of violating any provisions of this chapter shall, upon conviction, be subject to the penalties set forth in Chapter 1, General Provisions, Article I, Penalties, of the Code of the Village of Weston. Each violation shall constitute a separate offense.

(Ord. of 6-18-2007, Ord. of 5-20-2010)

* **Cross References**--Streets, Sidewalks and Other Public Places, Chapter 70, Zoning, Chapter 94.

State Law References--Authority, Wis. Stats. § [66.0423](#).

ARTICLE V. SLAUGHTERHOUSES, STOCKYARDS, JUNKYARDS, AUTOMOBILE GRAVEYARDS*

Sec. 18.130 Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings

ascribed to them in this section, except where the context clearly indicates a different meaning:

Junkyard, automobile graveyard or automobile salvage or wrecking yard means any place where two or more motor vehicles not in running condition, or their parts, are stored in the open and are not being restored to operation, or any land, building or structure used for wrecking or storing of such motor vehicles or farm machinery, or their parts, including the commercial salvaging of any other goods, articles, or merchandise. The term "junkyard" shall also be construed to mean an open or enclosed area or building where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including, but not limited to scrap iron and other metals, paper, rags, rubber tires, and glass.

(Code 1982, § 5.02(4); Ord. of 8-10-1992, § 1, Ord. of 5-20-2010)

Cross References --Definitions generally, § 1.101.

* **Cross References**--Animals, Chapter 10; Traffic and Vehicles, Chapter 82.

State Law References--Junkyards generally, Wis. Stat. § 84.31.

Sec. 18.131. Permit required; fee.

(a) It shall be unlawful to establish or enlarge and extend the structure of any slaughterhouse, stockyard, junkyard and automobile graveyard within the limits of the village without first registering with the village clerk/treasurer and obtaining a permit, which permit shall only be issued pursuant to resolution of the board, and which permit shall be issued only in the discretion of the board.

(b) It shall be unlawful to buy, sell or deal in junk, junk automobiles or their parts without first registering with the village clerk/treasurer and obtaining a permit, which permit shall be issued only in the discretion of the board.

(c) The permit fee shall be set by board resolution, and the fee shall be listed in the schedule of licenses and permit fees.

(Code 1982, § 5.02(1)--(3) , Ord. of 5-20-2010)

Sec. 18.132. Qualifications.

Before any person shall qualify for a permit under the provisions of this article, such person shall have proven to the village that the slaughterhouse, stockyard, junkyard and/or automobile graveyard has been or will be, within a limited time to be set by the board, enclosed within a high fence enclosure screening off the contents from the public. It will then be in the discretion of the board as to whether or not a permit will be issued.

(Code 1982, § 5.02(5) , Ord. of 5-20-2010)

Sec. 18.133. Exceptions to article provisions.

The covering of a maximum of three disabled and/or dismantled, non-operating automobiles

or their parts, and/or items of disabled farm, road or other machinery by a canvass, canopy or other covering that completely excludes them from the view of the public, by any person shall take that person out of the purview of this article.

(Code 1982, § 5.02(6) , Ord. of 5-20-2010)

ARTICLE VI. MASSAGE

Sec. 18.134. Definitions.

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

Manager means the operator or an agent licensed under this article, who shall be certified as a massage technician [under Wisconsin Administrative Code SPS Chapter MTBT 1 through MTBT 7](#).

Massage means, where a consideration passes, any process or procedure consisting of rubbing, stroking, kneading or tapping, by physical or mechanical means, upon the external parts or tissues of the body of another; and for purposes of this article shall include wrestling, dancing, body painting and/or removal of such paint from a body, and manicuring, where one or both of the participants expose one or more sexual or genital parts.

Massage establishment means a place of business wherein massage is practiced, used or made available, or where sex education, or sex counseling is carried on by any sex educators or counselors while one or more of the persons present at the counseling session is nude, or where wrestling, dancing, manicuring, or similar activities are conducted or permitted while one or more persons expose one or more sexual or genital parts.

Massage room means the area where private massage, wrestling, dancing, sex education, manicuring, body painting or removal of body paint, is performed.

Massage technician means a person who, for a consideration, practices, administers or engages in wrestling, dancing, manicuring, sex counseling, sex educating or massage, whether or not such persons hold a valid certificate under [Wisconsin Administrative Code SPS Chapter MTBT 1 through MTBT 7](#).

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

Patron means any person who receives a massage or participates in sex counseling or education sessions, wrestles, manicures, dances, body paints or removes body paint under such circumstances that it is reasonably expected that money or other consideration will pass between the patron and the manager, operator, owner or massage [under Wisconsin Administrative Code SPS Chapter MTBT 1 through MTBT 7](#).

Sexual or genital parts shall include the genitals, pubic areas, buttocks, anus or perineum of any person, or the vulva or breasts of a female.

Waiting area means an area adjacent to the main entrance that is separate from any area

where massages are given.

(Code 1982, § 5.10(2) , Ord. of 5-20-2010)

Cross References--Definitions generally, § 1.101.

Sec. 18.135. Exceptions.

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

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

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

(3) Accredited high schools and colleges and coaches and trainers in such schools while acting within the scope of their employment.

(4) Employees of those organizations that are exempt from real estate taxation pursuant to Wis. Stat. § [70.11](#), who administer massages upon such exempt premises as a duty assigned such employee by the employer.

(Code 1982, § 5.10(8) , Ord. of 5-20-2010)

Sec. 18.136. Operation without a license a public nuisance.

The operation of a massage establishment without a license or the activity of an individual as a massage technician without a certificate [under Wisconsin Administrative Code SPS Chapter MTBT 1 through MTBT 7](#) is deemed a public nuisance and may be enjoined by the village.

(Code 1982, § 5.10(9) , Ord. of 5-20-2010)

Sec. 18.137. Compliance with article required.

It shall be unlawful for any person to suffer, cause or permit the operation of a massage establishment, or for a person to operate as a massage technician, agent, manager or employee, except in strict compliance with this article.

(Code 1982, § 5.10(1) , Ord. of 5-20-2010)

Sec. 18.138. Massage establishment license.

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

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

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

(d) All applications shall include:

(1) A nonrefundable fee as set by board resolution, which shall be listed in the schedule of licenses and permit fees.

(2) The location and mailing address of the proposed establishment.

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

a. Name and present address.

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

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

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

e. Whether a similar license had been revoked or suspended and, if so, the reason and the location.

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

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

(5) All phone numbers of the proposed establishment.

(6) The names, addresses and phone numbers of all persons employed by the applicant at the time of application.

(7) Certification of compliance of the proposed premises with the building code and fire code, or in the alternative, the applicant shall file a bond assuring that any work required to be done to bring the premises into compliance with such codes shall be accomplished prior to the opening of business. Compliance with such codes and standards for health and sanitary operation and the acquisition of a health permit shall be conditions precedent to the opening of business.

(8) The application shall contain a statement signed by the applicant and each individual of all partnerships, corporations, LLP's, LLC's or joint ventures that all information contained in the application is true and correct.

(e) The issuance of this license shall allow for the licensing of up to three additional managers for each establishment.

(Code 1982, § 5.10(3) , Ord. of 5-20-2010)

Sec. 18.139. Massage technician's certificate and manager's certificate.

(a) No person shall act or operate for a consideration as a massage technician or manager without having first obtained a State of Wisconsin certificate as a massage technician [under Wisconsin Administrative Code SPS Chapter MTBT 1 through MTBT 7](#).

Sec. 18.141. Regulations of operations and licenses.

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

(1) The establishment shall comply with all village codes.

(2) Only one non-flashing business sign clearly identifying the establishment as a massage establishment shall be posted at the main entrance. No description of services, written or pictorial, shall be permitted on such sign, the square footage of which shall not exceed that permitted in the zoning district in which the establishment is located, or 18 feet, whichever is less.

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

(4) Only massage technicians certified [under Wisconsin Administrative Code SPS Chapter MTBT 1 through MTBT 7](#) pursuant to this article shall be employed as massage technicians by the establishment.

(5) The practice of all massage technicians certified by the State of Wisconsin under [SPS Chapter MTBT 1 through 7](#) employed by the establishment shall be limited to the licensed premises.

(6) No person under the age of 18 years shall be permitted on the premises.

(7) No intoxicating beverages or substance included in Wis. Stats. [Chapter 961](#) shall be permitted in the licensed establishment. Food shall be permitted only when there is

no charge and when a food preparation area, including sink with hot and cold running water, is a part of the establishment.

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

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

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

(11) The establishment shall keep current records of the names and addresses of its massage technicians certified by the [State of Wisconsin under SPS Chapter MTBT 1 through 7](#), agents, managers and employees and the date of employment and termination of each. Such records shall be open to inspection by any of the personnel listed in subsection (a)(10) of this section.

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

(13) The establishment shall maintain a system of giving paper receipts to all patrons. The receipt shall bear on its face the name, address and telephone number of the patron, and the time and date of issuance. The name of the massage technician who administers to the patron shall appear on the original of the receipt in the technician's own handwriting. Not less than once each month the county health officer shall inspect the original receipts. The information contained on the receipt shall be confidential. If the health officer believes one or more patrons should be advised of any fact arising out of the patron's patronage of the massage parlor, the contact shall be in a discreet and private manner in order to protect the privacy of the patron. No other public official shall have access to or be provided with any information on the patron receipt without a specific authorization by resolution adopted by the board, or by order of a court of competent jurisdiction.

(14) The establishment shall be equipped with security deposit facilities capable of being locked by the patron. Sufficient safety deposit facilities shall be furnished so that each patron will have a separate compartment available for storage of clothing and valuables.

(15) Every massage establishment shall have a minimum of one shower, one toilet and one washbasin.

(16) If male and female patrons are to be served simultaneously, such massage rooms, dressing facilities, toilet facilities, steam rooms, and sauna rooms as are provided shall be separated for male and female patrons; and each such separate facility or room shall be clearly marked as such.

(17) Rooms in which massage is to be practiced or administered shall have at least 50 square feet of clear floor area, and shall maintain a light level of no less than 40 foot-

candles as measured at three feet above the floor. Lighting in colors other than white shall be prohibited. Such rooms shall be equipped with cabinets for the storage of clean linen and chemicals and approved receptacles for the storage of soiled linen. Such rooms shall contain a door incapable of being locked from the exterior or interior. Such door shall contain a transparent window pane no less than 12 inches wide and 12 inches long, such that an unobstructed view of the room is provided from a hallway or other common access area immediately adjacent to the room.

(18) No stuffed or upholstered furniture or beds and mattresses shall be permitted in rooms in which massage is to be practiced or administered. Such rooms shall be equipped with massage tables having a hard surface impervious to liquids with a width of no more than three feet and a length of no more than eight feet. The surface of such tables shall be positioned at least two feet from the surface of the floor so as to allow for free access to the floor beneath. Such tables may be equipped with either non-disposable pads or coverings or disposable coverings not more than 2 1/2 inches thick. Non-disposable pads or coverings shall be removable, impervious and cleanable.

(19) Massage establishments and massage technicians certified by the State of Wisconsin under [SPS Chapter MTBT 1 through MTBT 7](#) in such establishments shall prominently and publicly display on the premises their licenses and permits during all hours of operation.

(20) Massage establishments shall at all times be equipped with an adequate supply of clean, sanitary towels, coverings and linens. Clean towels, coverings and linens shall be stored in cabinets. Towels and linens shall not be used on more than one patron unless they have first been laundered and disinfected. Disposable coverings and towels shall not be used on more than one patron. Soiled linens and paper towels shall be deposited in approved receptacles.

(21) Instruments utilized in performing massage shall not be used on more than one patron unless they have first been sterilized, using disinfecting agents or sterilizing equipment approved by the health officer. Massage table pads and reusable table coverings shall be disinfected between each massage with approved chemicals. Chemicals used during massage shall be stored separately in containers clearly labeled as to contents. All chemical containers shall be stored in cabinets reserved solely for such purpose.

(b) Each technician certified by the State of Wisconsin under [SPS Chapter MTBT 1 through MTBT 7](#) shall at all times comply with the following regulations:

(1) The technician certified by the State of Wisconsin under [SPS Chapter MTBT 1 through MTBT 7](#) shall practice only on the premises of a licensed massage establishment.

(2) The technician certified by the State of Wisconsin under [SPS Chapter MTBT 1 through MTBT 7](#) shall massage only patrons over the age of 18 years.

(3) No technician certified by the State of Wisconsin under [SPS Chapter MTBT 1 through MTBT 7](#) shall administer a massage if he/she believes, knows or should know that he/she is not free of any contagious or communicable disease or infection.

(4) The technician certified by the State of Wisconsin under [SPS Chapter MTBT 1 through MTBT 7](#) shall report any change of fact required in the application form to the village clerk/treasurer within ten days after such change.

(5)

a. It shall be unlawful for any person in a massage parlor to place his/her hand or hands upon, to touch with any part of his/her body, to fondle in any manner, or to massage, a sexual or genital part of any other person, or to offer to do any of the acts described in this subsection.

b. It shall be unlawful for any person in a massage parlor to expose his/her sexual or genital parts to any other person. It shall also be unlawful for any person in a massage parlor to expose the sexual or genital parts of any other person, or to offer to do any of the acts described in this subsection.

c. It shall be unlawful for any person, while in the presence of any other person in a massage parlor, to fail to conceal with a fully opaque covering the sexual or genital parts of his/her body, or to offer to do any of the acts described in this subsection.

d. It shall be unlawful for any person owning, operating or managing a massage parlor knowingly to cause, allow or permit in or about such massage parlor any agent, employee or any other person under his/her control or supervision to perform such acts prohibited in subsection (a), (b) or (c) of this section, or to offer to hire or permit any person to do any of the acts described in this subsection.

(c) In the event of denial, the applicant shall receive written notification of denial setting forth the reasons for the denial within ten days after such denial.

(d) Licenses granted by the board shall expire on June 30 of each year. Reapplication shall be not less than 60 days prior to such expiration date and shall be the sole responsibility of the applicant.

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

(f) The massage technician certified by the State of Wisconsin under [SPS Chapter MTBT 1 through MTBT 7](#) does not entitle the holder to operate or manage a massage establishment.

(Code 1982, § 5.10(6), Ord. of 5-20-2010)

Sec. 18.142. Revocation or suspension of license.

(a) **Grounds.** The license granted in this article may be revoked or suspended for up to six months by the board:

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

(2) For the violation of any provision of this article, except for establishment license matters involving violations of village codes, in which case the license shall be revoked after the second conviction in any license year.

(3) If a technician's or manager's State of Wisconsin certificate, after one conviction of any offense under Wis. Stats. [Chapter 944](#), or of any offense involving substances included in Wis. Stats. [Chapter 961](#), or of an offense against the person or property of a patron, whether such occurred on or off the premises of the establishment.

(4) If a technician's or manager's State of Wisconsin certificate has been suspended, revoked, or denied under Wisconsin Administrative Code [SPS Chapter MTBT 1 through MTBT 7](#).

(5) If an establishment license, after one conviction of any establishment personnel of an offense under Wis. Stats. [Chapter 944](#), or of an offense against the person or property of a patron or of an offense involving substances in Wis. Stats. [Chapter 961](#), where there is shown the participation or knowledge of any other establishment personnel or of any individual within the business structure of the applicant.

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

(Code 1982, § 5.10(7), Ord. of 5-20-2010)

ARTICLE VII. PAWNBROKERS AND SECONDHAND DEALERS*

Sec. 18.143 Pawnbrokers.

(a) ***Purpose.***

(1) The Village Board finds that the services offered by pawnshops provide an opportunity for individuals to readily transfer stolen property to those businesses. The Board also finds that consumer protection regulation is warranted in transactions involving these businesses. The Board further finds that pawnshops have outgrown the Village's current ability to effectively or efficiently identify criminal activity related to them. The purpose of this chapter is to prevent pawnshops from being used to facilitate the commission of crimes and to assure that they comply with basic consumer protection standards, thereby protecting the public health, safety, and general welfare of the citizens, and pursuant to the authority granted by Wis. Stat. § [134.71](#).

(2) This Ordinance implements and establishes the required use of a Pawn Tracking System of the Police Department's choosing to help the police department better regulate current and future pawnshops to decrease and stabilize costs associated with the regulation of pawnshops, and to increase identification of criminal activities in pawnshops through the timely collection and sharing of transaction information.

(b) **Definitions.** In this section:

(1) **Article** means any item of value.

(2) **Billable transaction** means every reportable transaction except renewals, redemptions, voids, or extensions of existing pawns or purchases previously reported and continuously in the pawnbroker's possession.

(3) **Charitable organization** means a corporation, trust, or community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(4) **Customer** means a person with whom a pawnbroker, or an agent thereof, engages in a transaction of purchase, sale, receipt, or exchange of any secondhand article.

(5) **Pawnbroker** means any person who engages in the business of lending money on the deposit or pledge of any article or purchasing any article with an expressed or implied agreement or understanding to sell it back at a subsequent time at a stipulated price. To the extent that a pawnbroker's business includes buying personal property previously used, rented, leased, or selling it on consignment, the provisions of this chapter shall be applicable. A person is not acting as a pawnbroker when engaging in any of the following:

a. Any transaction at an occasional garage or yard sale, an estate sale, a gun, knife, gem, or antique show, or a convention.

b. Any transaction entered into by a person engaged in the business of junk collector, junk dealer, or scrap processor, as described in Wis. Stat. § [70.995\(2\)\(x\)](#).

c. Any transaction while operating as a charitable organization or conducting a sale, the proceeds of which are donated to a charitable organization.

d. Any transaction between a buyer of a new article and the person who sold the article when new that involves any of the following:

1. The return of the article.

2. The exchange of the article for a different, new article.

e. Any transaction as a purchaser of a secondhand article from a charitable organization if the secondhand article was a gift to the charitable organization.

f. Any transaction as a seller of a secondhand article that the person bought from a charitable organization if the secondhand article was a gift to the charitable organization.

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

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

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

(7) ***Secondhand*** means owned by any person, except a wholesaler, retailer, or licensed secondhand article dealer, immediately before the transaction at hand.

(c) ***Inspection of Items.*** At all times during the term of the license, the pawnbroker must allow the police department to enter the premises where the licensed business is located, including all off-site storage facilities, during normal business hours, except in an emergency, for the purpose of inspecting such premises and inspecting the items, wares, merchandise, and records therein to verify compliance with this chapter or other applicable laws.

(d) *(Reserved.)*

(e) ***License.*** No person may operate as a pawnbroker in the Village unless the person first obtains a pawnbroker license under this chapter.

(f) ***Display of license.*** Each license issued under this chapter shall be displayed in a conspicuous place visible to anyone entering a licensed premise.

(g) ***License application.*** A person wishing to operate as a pawnbroker shall apply for a license to the Village Clerk. The clerk shall furnish application forms approved by the police department that shall require all of the following:

(1) The applicant's name, place and date of birth, residence address, and residence addresses for the 10-year period prior to the date of the application.

(2) The name and address of the business and of the owner of the business premises.

(3) Whether the applicant is a natural person, corporation, limited liability company, or partnership; and

1. If the applicant is a corporation, the state where incorporated and the names and addresses of all officers and directors.

2. If the applicant is a partnership, the names and addresses of all partners.

3. If the applicant is a limited liability company, the names and addresses of all members.

4. The name of the manager or proprietor of the business.

5. Any other information that the clerk may reasonably require.

(4) A statement as to whether the applicant, including an individual, agent, officer, director, member, partner, manager, or proprietor, has been convicted of any crime, statutory violation punishable by forfeiture, or county or municipal ordinance violation. If so, the applicant must furnish information as to the time, place, and offense of all such convictions.

(5) Whether the applicant or any other person listed in subsection (4) above has ever used or been known by a name other than the applicant's name, and if so, the name or names used and information concerning dates and places used.

(6) Whether the applicant or any other person listed in subsection (4) above has previously been denied or had revoked or suspended a pawnbroker license from any other governmental unit. If so, the applicant must furnish information as to the date, location, and reason for the action.

(h) ***Investigation of license applicant.*** The police department shall investigate each applicant and any other person listed in subsection (3) above for a pawnbroker license. The department shall furnish the information derived from that investigation in writing to the Village clerk. The investigation shall include each agent, officer, member, partner, manager, or proprietor.

(i) ***License issuance.***

(1) The Village Board shall grant the license if all of the following apply:

a. The applicant, including an individual, a partner, a member of a limited liability company, a manager, a proprietor, or an officer, director, or agent of any corporate applicant, does not have an arrest or conviction record subject to Wis. Stats. §§ [111.321](#), [111.322](#) and [111.335](#).

b. The applicant provides to the Village clerk a bond of \$2,500 with not less than 2 sureties for the observation of all municipal ordinances or state or federal laws relating to pawnbrokers. The bond must be in full force and effect at all times during the term of the license.

(2) No license issued under this subsection may be transferred.

(3) Each license is valid from July 1 until the following June 30.

(j) ***Requirements.***

(1) ***Identification.*** No pawnbroker may engage in a transaction of purchase, receipt, or exchange of any secondhand article from a customer without first securing adequate identification from the customer. At the time of the transaction, the pawnbroker shall require the customer to present one of the following types of identification:

a. Current, valid Wisconsin driver's license;

b. Current, valid Wisconsin identification card;

c. Current, valid photo identification card or photo driver's license issued by

another state or province of Canada.

(2) ***Transactions with minors.***

a. Except as provided in subsection (2)b., no pawnbroker may engage in a transaction of purchase, receipt, or exchange of any secondhand article from any minor, defined as a person under the age of 18 years.

b. A pawnbroker may engage in a transaction described under subsection (2)a. if the minor is accompanied by his/her parent or guardian at the time of the transaction and the parent or guardian signs the transaction form and provides identification as required by this section.

(3) ***Records required.*** At the time of any reportable transaction other than renewals, extensions, or redemptions, every pawnbroker must immediately record in English the following information by using ink or other indelible medium on forms or in a computerized record approved by the police department:

a. A complete and accurate description of each item, including, but not limited to any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item.

b. The purchase price, amount of money loaned or pledged therefore.

c. The maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges.

d. Date, time, and place the item of property was received by the pawnbroker, and the unique alpha and/or numeric transaction identifier that distinguishes it from all other transactions in the pawnbroker's records.

e. Full name, current residence address, current residence telephone number, date of birth, and accurate description of the person from whom the item of property was received, including sex, height, weight, race, color of eyes, and color of hair.

f. The identification number and state of issue from any of the following forms of identification of the seller:

1. Current, valid Wisconsin driver's license;

2. Current, valid Wisconsin identification card;

3. Current, valid photo identification card or photo driver's license issued by another state or province of Canada.

g. The signature of the person identified in the transaction.

h. Renewals, extensions, and redemptions. The pawnbroker shall provide the original transaction identifier, the date of the current transaction, and the type of transaction for renewals, extensions, and redemptions.

i. Record retention. Data entries shall be retained for at least 1 year from the

date of transaction.

j. For every secondhand article purchased, received, or exchanged by a pawnbroker from a customer off the pawnbroker's premises, or consigned to the pawnbroker for sale on their premises, the pawnbroker shall keep a written inventory. In this inventory the pawnbroker shall record the name and address of each customer, the date, time, and place of the transaction, and a detailed description of the article that is the subject of the transaction. The customer shall sign his/her name on a declaration of ownership of the secondhand article identified in the inventory and shall state that he/she owns the secondhand article. The pawnbroker shall retain an original and a duplicate of each entry and declaration of ownership relating to the purchase, receipt, or exchange of any secondhand article for not less than one year after the date of the transaction, except as provided in subsection (6)., and shall make duplicates of the inventory and declarations of ownership available to any law enforcement officer for inspection at any reasonable time.

(4) ***Holding period.***

a. Except as provided in subsection (4)c., any secondhand article purchased or received by a pawnbroker shall be kept on the premises or other place for safekeeping for not less than 30 days after the date of purchase or receipt, unless the person known by the pawnbroker to be the lawful owner of the secondhand article redeems it.

b. During the period set forth in subsection (4)a., the secondhand article shall be held separate from saleable inventory and may not be altered in any manner. The pawnbroker shall permit any law enforcement officer to inspect the secondhand article during this period. Within 24 hours after a request of a law enforcement officer during this period, a pawnbroker shall make available for inspection any secondhand article which is kept off the premises for safekeeping.

c. Subsections (4)a. and b. do not apply to a secondhand article consigned to a pawnbroker.

(5) ***Redemption period.*** Any person pledging, pawning or depositing any item for security must have a minimum of 60 days from the date of that transaction to redeem the item before it may be forfeited and sold. During the 60-day holding period, items may not be removed from the licensed location. Pawnbrokers are prohibited from redeeming any item to anyone other than the person to whom the receipt was issued, to any person identified in a written and notarized authorization to redeem the property identified in the receipt, or to a person indentified in writing by the pledger at the time of the initial transaction and signed by the pledger, or with the approval of the pledger at the time of the initial transaction and signed by the pledger, or with the approval of the police department. Written authorization for release of property to persons other than the original pledger must be maintained along with the original transaction record in accordance with the subsection (3)i.

(6) ***Police order to hold property.***

a. Investigative hold. Whenever a law enforcement officer from any agency notifies a pawnbroker not to sell an item, the item must not be sold or removed from the premises. The investigative hold shall be confirmed in writing by the originating agency within 72 hours and will remain in effect for 15 days from the date of initial notification, or until the investigative order is canceled, or until an order to confiscate is issued, pursuant to subsection b., whichever comes first.

b. Order to confiscate.

1. If an item is identified or stolen or evidence in a criminal case, the police department may physically confiscate and remove it from the shop, pursuant to a written order from the police department.

2. When an item is confiscated, the person doing so shall provide identification upon request of the pawnbroker, and shall provide the pawnbroker with the name and phone number of the confiscating officer and the case number related to the confiscation.

3. When an order to confiscate is no longer necessary, the police department shall so notify the pawnbroker.

(7) *Daily reports to police.*

a. Pawnbrokers must submit every reportable transaction to the police department daily in the following manner. Pawnbrokers must provide to the police department all information required in subsection (3) and other required information, by transferring it from their computer to the Police Department's designated Pawn Tracking System. All required records must be transmitted completely and accurately after the close of business each day in accordance with standards and procedures established by the police department using procedures that address security concerns of the pawnbroker and the police department. The pawnbroker must display a sign of sufficient size in a conspicuous place on the premises which informs all patrons that all transactions are reported daily to the department and the designated Pawn Tracking System.

b. Billable transaction fees. Pawnbrokers will be charged for each billable transaction reported to the police department. These fees are intended to pay for the cost of participation in the Pawn Tracking System.

c. If a pawnbroker is unable to successfully transfer the required reports by modem, the pawnbroker must provide the police department with printed copies of all reportable transactions by 12:00 noon the next business day.

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

e. Regardless of the cause or origin of the technical problems that prevented the pawnbroker from uploading the reportable transactions, upon correction of the problem, the pawnbroker shall upload every reportable transaction from every business day the problem has existed.

f. The provisions of this section notwithstanding, the police department may, upon presentation of extenuating circumstances delay the implementation of the daily reporting penalty.

g. Subsection (7). shall not apply to businesses that did not have 200 reportable

transactions in the past calendar year. However, any such pawnbroker must follow daily reporting procedure for each reportable transaction by submitting a written transaction form approved by the police department to the department on the business day following the date of the reportable transaction.

(8) ***Exception for customer return or exchange.*** Nothing in this section applies to the return or exchange from a customer to a pawnbroker of any secondhand article purchase from the pawnbroker.

(k) ***Receipt required.*** Every pawnbroker must provide a receipt to the party identified in every reportable transaction and must maintain a duplicate of that receipt for 3 years. The receipt must include at least the following information:

(1) The name, address, and telephone number of the licensed business.

(2) The date and time the item was received by the pawnbroker.

(3) Whether the item was pawned or sold, or the nature of the transaction.

(4) An accurate description of each item received, including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item.

(5) The signature or unique identifier of the pawnbroker or employee that conducted the transaction.

(6) The amount advanced or paid.

(7) The monthly and annual interest rates, including all pawn fees and charges.

(8) The last regular day of business by which the item must be redeemed by the pledger without risk that the item will be sold, and the amount necessary to redeem the pawned item on that date.

(9) The full name, residence address, residence telephone number, and date of birth of the pledger or seller.

(10) The identification number and state of issue from any of the following forms of identification of the seller:

a. Current, valid Wisconsin driver's license.

b. Current, valid Wisconsin identification card.

c. Current, valid photo driver's license or identification card issued by another state or province of Canada.

(11) Description of the pledger or seller, including approximate sex, height, weight, race, color of eyes, and color of hair.

(12) The signature of the pledger or seller.

(l) ***Label required.*** Pawnbrokers must attach a label to every item at the time it is pawned, purchased, or received in inventory from any reportable transaction. Permanently recorded on this label must be the number or name that identifies the transaction in the shop's records, the transaction date, the name of the item and the description or the model and serial number of the items as reported to the police department, whichever is applicable, and the date the item is out of pawn or can be sold, if applicable. Labels shall not be reused.

(m) ***Prohibited acts.***

(1) No person under the age of 18 years may pawn or sell or attempt to pawn or sell goods with any pawnbroker, nor may any pawnbroker receive any goods from a person under the age of 18 years, except as permitted by section (j) (2) b.

(2) No pawnbroker may receive any goods from a person of unsound mind or an intoxicated person.

(3) No pawnbroker may receive any goods unless the seller presents identification in the form of a valid driver's license, a valid state of Wisconsin identification card, or current, valid photo driver's license or identification card issued by the state of residency of the person from whom the item was received.

(4) No pawnbroker may receive any item of property that possesses an altered or obliterated serial number or other identification number, or any item of property that has had its serial number removed.

(5) No person may pawn, pledge, sell, consign, leave, or deposit any article of property not their own, nor shall any person pawn, pledge, sell, consign, leave, or deposit the property of another, whether with permission or without, nor shall any person pawn, pledge, sell, consign, leave, or deposit any article of property in which another has a security interest with any pawnbroker.

(6) No person seeking to pawn, pledge, sell, consign, leave, or deposit any article of property with any pawnbroker shall give a false or fictitious name, nor give a false date of birth, nor give a false or out-of-date address of residence or telephone number, nor present a false or altered identification or the identification of another to any pawnbroker.

(n) ***License denial, suspension, or revocation.***

(1) The Village Board may deny, suspend, or revoke any license issued by it under this section for fraud, misrepresentation, or false statement contained in the application for a license, or for any violation of this chapter or Wis. Stats. §§ [134.71](#), [943.34](#), [948.62](#) or [948.63](#), or for any other violation of local, state, or federal law substantially related to the businesses licensed under this chapter.

(2) The Village Board may deny, suspend, or revoke any license issued by it under this section if the applicant is not a citizen of the United States or a resident alien, or upon whom it is impractical or impossible to conduct a background or financial investigation due to the unavailability of information.

(o) ***Fees.***

(1) The license fee under this chapter shall be as contained in the Village of

Weston Fees and Licenses Schedule.

(2) A billable transaction fee as contained in the Village of Weston Fees and Licenses Schedule shall be charged for each billable transaction, and such fees shall be billed to each pawnbroker monthly and are due and payable within 30 days of the billing date. Failure to pay within that time period is a violation of this chapter.

(p) **Penalty.** Any person who is convicted of violating any of the provisions of this ordinance shall forfeit not less than \$5 nor more than \$2,000, plus the costs of prosecution, and in default of such payment, shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding 90 days. Each day of violation shall constitute a separate offense.

(q) **Severability.** If any section of this Ordinance is found to be unconstitutional or otherwise invalid, the validity of the remaining sections shall not be affected.

(Ord. of 11-14-2008 and 5-11-2009, Ord. of 5-20-2010, Ord. of 3-6-13)

Sec. 18.144 Provisions of state law adopted by reference.

Except as otherwise specifically provided in this article, all provisions of Wis. Stats. §§ [134.71](#) and [138.10](#), as amended, relating to pawnbrokers and secondhand article and jewelry dealers, describing and defining regulations with respect to pawnbrokers and secondhand dealers and providing for licensing regulations, including penalties to be imposed for the violation of such sections, are adopted and by reference made a part of this section as if fully set forth in this section. Any act required to be performed or prohibited by any provision of the statutes incorporated by reference is required or prohibited by this section. Any future amendments, revisions or modifications of the statutes incorporated in this section are intended to be made a part of this section in order to secure uniform state regulation of pawnbrokers and secondhand dealers.

(Ord. of 7-30-1990, Ord. of 11-14-2008, § 1(1) , Ord. of 5-20-2010)

* **State Law References**--Pawnbrokers generally, Wis. Stat. § [138.10](#); secondhand goods, dealers generally, Wis. Stat. § [134.71](#).

ARTICLE VIII. SHOWS, CIRCUSES AND CARNIVALS

Sec. 18.145. License.

(a) **Required.** No person shall exhibit to public view for gain within the limits of the village any circus, carnival, theatrical performance, sleight-of-hand performance or other show of any kind where admission is gained by the payment of money or other valuable thing (except lectures on scientific, moral or literary subjects or concerts of music), without first having been licensed as provided in this section.

(b) **Fee.** The sum to be paid for a carnival or circus license shall be set by board resolution, and such fee shall be listed in the schedule of licenses and permit fees.

(c) **Issuance, contents, transferability.** All licenses granted under this article shall be issued and signed by the village clerk/treasurer upon presentation of the receipt for the amount of such license fee. Such license, when granted, shall particularly specify where such show or exhibition is to be held and its duration, and shall not be transferable or inure to the benefit of any person except the one to whom the license shall be issued.

(Code 1982, § 5.05, Ord. of 5-20-2010)

Sec. 18.146. Reserved.

Sec. 18.147. Licensing of cabarets and amusement devices.

(a) **License required.** No person shall keep, maintain, conduct or operate a cabaret as defined in this section, nor shall any person operate or place or keep or have in his/her possession, or under or his/her control, or on his/her premises for operation, any amusement device, coin operated music machine or coin operated pool table without first having obtained a license therefore as provided in this section.

(b) **Definitions.** In this section unless the context requires otherwise:

(1) A "**cabaret**" is defined as a place to which the general public is admitted and where entertainment, such as music of any type, be it instrumental music performed by an individual or group, vocal, by mechanical means or otherwise, singing, vaudeville or dancing is furnished to patrons by the management with or without special charge therefore.

(2) An "**amusement device**" is any mechanical and/or computer operated machine or other apparatus or device located in or on the premises of a business establishment and available for the amusement and/or entertainment of the patrons thereof, and where a charge is made for the use of any such device.

(c) **Fee and issuance.** The fees for cabaret licenses, amusement devices and coin operated music machines shall be determined by Village Board Resolution. Each such fee shall be listed in the schedule of licenses and permit fees on file with the village clerk. Each such license shall be issued by the clerk for a period of one year and shall expire on June 30th of the year for which the license is issued. The village board may grant a special license for a period not exceeding ten days upon application therefore to the village clerk. A daily special license fee shall be listed in the schedule of licenses and permits approved by the board.

(d) **Exceptions.** Musical entertainment, amusement devices and coin operated music machines provided by non-profit organizations at events for a period of not more than ten days such as school, religious or charitable fund raising events, shall not be subject to the provisions of this section provided any such event otherwise complies with other village ordinances and any conditions imposed by the village to hold such event.

(e) **Refusal to grant license; revocation.** The village board may, upon notice and an opportunity by the holder thereof to be heard, deny any application for or revoke any issued license upon a finding or determination that such license should not be granted or

should be revoked for cause based upon the health, welfare and safety of the Village and its residents. Any such determination shall set forth the reasons for the denial of any such permit or revocation.

(f) **Penalty.** Any person who shall violate any of the provisions of this section shall upon conviction thereof, be subject to the forfeitures and penalties provided under Sec. 1.111 of the Village of Weston Municipal Code.

(Ord. of 6-3-2002, Ord. of 5-20-2010)

ARTICLE IX. MOBILE FOOD VENDORS

Sec. 18.148. Mobile Food Vendors License.

(a) **Purpose.** It is a lawful purpose of the board to enact regulatory ordinances protecting and promoting the general welfare, health and safety of its citizens. The board deems it necessary to require licensing and regulation of Mobile Food Vendor units.

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

(1) **“Charitable Organization”** means any patriotic, philanthropic, social service, welfare, benevolent, educational, civic or fraternal, person, partnership, association or corporation that is validly registered under Wis. Stat. § [440.42](#).

(2) **“Farmers’ Market”** means the days the Village of Weston provides a time and space for vendors to peddle, vend, sell, serve, display, offer to sell or give away a good, product or food.

(3) **“Licensee”** means an applicant who has obtained a license to conduct a mobile food vending operation pursuant to this Article.

(4) **“Mobile Food Vending Unit”** means any motorized or non-motorized vehicle, trailer, kiosk, pushcart, pedal cart, stand, display, carried container, blanket, ground covering or other device designed to be portable and not permanently attached to the ground from which food and/or beverages are being peddled, vended, sold, served, displayed, or offered for sale or given away. This definition does not include a mobile wholesale delivery unit, a vehicle which is used solely to transport or deliver food, or a common carrier regulated by the state or federal government.

(5) **“Mobile Food Vendor”** means a person who peddles, vends, sells, serves, displays, offers to sell or give away food or beverages from a mobile food vending unit.

(6) **“Public Streets”** used in this Article means any highway, street, or alley located within the corporate limits of the Village of Weston.

(7) **“School Property”** means all property owned or operated by a public school as defined in Wis. Stat. § [115.01\(1\)](#) or owned or operated by a private school as defined in Wis. Stat. § [118.165](#), grades kindergarten through twelve (12).

(8) “*Sidewalks*” includes paved walkways and boulevards within the right-of-way within the corporate limits of the Village of Weston.

(9) “*Vending*” means peddle, vend, sell, serve, display, offer to sell or give away food or beverages.

(c) ***License Required.*** It shall be unlawful for any person or persons to operate a mobile food vendor unit, except as provided within this Article, and without first having obtained a license from the Village Clerk. No license to operate a mobile food vendor unit shall be issued without the Village Board of Trustee’s approval.

(d) ***Exemptions.*** The following mobile food vendors may vend without a license, but are subject to the regulations set forth under Section 94.4.10(13) of the zoning code:

(1) A person(s), on behalf of a charitable organization, selling individually wrapped, sealed food or beverage items that are prepared and packaged by a licensed food processor.

(2) A person(s), under the age of 18, operating a “lemonade stand” or the equivalent thereof on privately owned, residential use property.

(3) A person(s), during the Village’s designated Farmers’ Market days, selling food or beverages made by said person(s).

(e) ***Application.*** All applicants shall submit a sworn application on a form provided by the Clerk, which shall require, at a minimum, the following information:

(1) Name, address, telephone number, date of birth, email address and Wisconsin Drivers’ License number of the applicant and all operators.

(2) Name, address, telephone number and Wisconsin Drivers’ License number of the person(s), firm, association or corporation that the applicant and operators represent or is employed by.

(3) A statement of whether the applicant has been arrested or convicted of any crime or ordinance violation together with the nature of the offense and the place of conviction.

(4) Make, model and license number of any vehicle to be used or in association with the use by the applicant or operators of the conduct of the business.

(5) A photograph of the unit and a drawing, including the dimensions, of the mobile food vending unit, along with identification and depiction of all supporting features including, but not limited to, umbrella, awning and waste receptacle.

(6) A copy of the current Marathon County Health Department Certificate.

(7) A copy of the current State of Wisconsin Seller’s Permit.

(f) ***Vehicles.*** Any vehicle or other street unit used for vending food in any public right-of-way must be designed and constructed specifically for the purpose of vending such food products. A mobile vendor vending from a mobile food vending unit from a vehicle or

other on-street unit must obtain all necessary approvals from the SAFER fire district. All documentation of approval must be submitted with the application.

(1) Any motorized vehicle used in the vending on public street shall have the appropriate and valid vehicle registration as required under Wis. Stat. § 341 and its operator shall have and maintain a valid Wisconsin Driver's License at all times.

(2) A mobile vendor and any vehicle or other on-street vending unit in any public street shall comply with all state and municipal traffic and parking laws at all times.

(g) **Agent.** A licensee may be a corporation, cooperative or partnership; however, the application and license shall designate a primary individual, the agent, who is regularly involved in all phases of the operation of the mobile food vendor unit and who is responsible for the mobile food vendor unit. Such corporation, cooperative or partnership shall be liable for the acts or omissions of its supplemental vendors, but such liability shall not relieve any individual supplemental vendor from liability from his/her own acts or omissions.

(h) **Age.** All applicants must be of at least 18 years of age at the time of the submittal of the application.

(i) **Insurance.** An applicant must have in force adequate liability insurance and must agree to indemnify, defend and hold the Village, its employees and agents harmless against all claims, liability, loss, damage or expense incurred by the Village as a result of any injury to or death of any person or damage or property caused by or resulting from the activities for which a license may be granted. As evidence of liability insurance, the applicant shall furnish a Certificate of Insurance, on a form acceptable by the Village, evidencing the existence of commercial general liability insurance naming the Village of Weston, its employees and agents as additional insured with minimum limits of one million dollars (\$1,000,000.00) in the aggregate. Whenever such a policy is cancelled, not renewed, or materially changed, the insurer and the licensee shall notify the Village by certified mail.

(1) All motorized vehicles used in the operation of the mobile food vendor, vending from in any public street, shall have in effect motor vehicle liability insurance, as required under Wis. Stat. § [344.62](#) and in a minimum amount of one million dollars (\$1,000,000.00). Proof of such insurance shall be provided at the time of application. Whenever such policy is cancelled, not renewed, or materially changed, the insurer and the licensee shall notify the Village by certified mail.

(j) **Fees.** The applicant shall pay a fee as set forth within the Village Fee Schedule. The license shall be paid at the time the application is filed with the Village Clerk. Fees will not be reimbursed for applications that have been denied or that have been withdrawn after the required background check has been completed.

(1) Any applicant conducting business on behalf of a not-for-profit or representing a not-for-profit shall be exempt from any fees, but are subject to the regulations set forth in this Article. Proof of [501\(c\)\(3\)](#) federal tax-exempt status must be filed with the application at the time of submittal.

(k) **Term.** Licenses shall be issued on an annual basis beginning on April 1 and expiring on March 31, or a 6-month basis beginning on April 1 and expiring on September 30 or a beginning on October 1 and expiring on March 31, subject to subsection (k). There shall not be prorated fees or other reductions for applications.

(l) **Number.** No more than twenty (20) licenses shall be issued each year by the Village. Licenses shall be issued on a “first-come/first-serve” basis, provided that the applicant meets the requirements of this Article. No person may hold more than one license per licensing period.

(m) **Investigation.** Upon receipt of an application and fee, the Village Clerk shall refer the application to the Chief of Police or the appointed designee, as hereby referenced to in this section as the Chief of Police. The Chief of Police shall make an investigation of the accuracy of the statements made in the application and determine whether the applicant has been convicted of felony, misdemeanor, statutory violation punishable by forfeiture, or county or municipal ordinance violation in which the circumstances of the felony, misdemeanor, or other offense substantially relate to the circumstance of the permitted activity, and, if so, the nature and the date of the offense and the penalty assessed.

(n) **Approval.** Upon the completion of an investigation, the Chief of Police shall submit a report regarding the fitness of the applicant to conduct the proposed business based on the accuracy or omission of the statements made in the application. The Chief of Police shall return the application to the Village Clerk for the referral to the Community Life and Public Safety Committee, who shall make the recommendation of action to the Village Board. Upon the return of the application from the Village Board, the Clerk shall either issue the license to the applicant or notify the applicant by mail, or email, and in writing that the application was denied, along with the reasons therefore, based on the approval or denial, respectively.

(o) **License.** Upon the approval of the license by the Village Board, compliance with this Article and any other applicable ordinances, a license will be issued to the mobile food vendor. The possession of a license by a mobile food vendor does not, in and of itself, entitle a vendor to the use of any specific vending site on a specific day or entitle a vendor to a minimum number of vending days during the licensing period.

(1) Licenses shall include information deemed necessary by the Village Clerk and shall contain at a minimum, the name, address, telephone number and the principal operator of the mobile food vending unit, date of issuance, and expiration date.

(2) Every mobile food vendor shall prominently display the license at all times in a conspicuous place, that is unblocked from public view on the mobile food vending unit. Licenses issued under this Article are non-transferable to another mobile food vendor. A mobile food vendor may transfer its license to another mobile food vendor unit, provided the applicant updates the license application and the mobile food vending unit meets the requirements set forth in the Article and under Section 94.4.10(13) of the zoning code. A mobile food vendor may not operate more than one mobile food vendor unit within the Village at any one time.

(p) **Appeals of Denial.** The applicant may appeal the denial of the license through the appeal procedure provided by ordinance or resolution of the Village Board, or if none has been adopted, then under the provisions of Wis. Stats. §§ [68.07 through 68.16](#).

(q) **Suspension, Revocation or Non-Renewal.**

(1) The Community Life and Public Safety Committee may make a recommendation to suspend, revoke or fail to renew a license issued under this Article to

the Village Board. Cause for suspending, revoking or non-renewal of a license shall include one of the following reasons:

i. Violation by licensee, its manager or an employee of a provision of this Article, Chapter 94 or any other municipal ordinance applicable to the business of the licensee.

ii. Violation of the Marathon County Health Department, the State food and health regulations, or any other regulations relating to the handling and serving of food to the general public.

iii. Fraud, misrepresentation or false statements contained in the license application submitted under this article or made in carrying on the business of the licensee.

iv. Conviction of the licensee, its manager, or an employee of a felony or misdemeanor substantially related to the mobile food vending operation.

v. Conducting mobile food vending operations in such a manner as to constitute a menace to the health, safety and welfare of the general public.

(2) Appeal of the decision of the Village Board appeal the denial of the license through the appeal procedure provided by ordinance or resolution of the Village Board, or if none has been adopted, then under the provisions of Wis. Stats. §§ [68.07 through 68.16](#).

(3) No applicant who has had a license denied, or licensee who has had their license suspended, revoked or non-renewed may make any further application for a license under this Chapter for a one-year period.

(r) **Penalties.** Any person violating this Article shall:

(1) Upon conviction for a first offense, forfeit \$100.00, together with the cost of prosecution. Each and every day during which any such violation continues shall constitute a separate violation;

(2) Upon conviction for a second offense or subsequent offence, forfeit \$200.00, together with the cost of prosecution. Each and every day during which any such violation continues shall constitute a separate violation.

(s) **Severability.** If any provision or portion of this Article is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

ARTICLE X. WEIGHTS AND MEASURES

Sec. 18.149. Weights and Measures permit.

(a) **Purpose.** This section adopts the State of Wisconsin Weights and Measures Regulations and establishes a Weights and Measures Program wherein any person or entity subject to said regulations must obtain a license in order for the Village to comply with and recoup the costs of enforcing said regulations. This section is adopted pursuant to the

provisions of Wis. Stat. [Chapter 98](#).

(b) ***Application of State Codes.*** Except as otherwise specifically provided in this section, the provisions of Wis. Stat. [Chapter 98](#), Weights and Measures, and Wis. Admin. Code Chapters ATCP [90](#), [91](#) and [92](#) are hereby adopted and made a part of this section as though fully set forth herein. Any act required to be performed or prohibited by any statute or code incorporated herein by reference is required or prohibited by this section. Any future amendments, revisions or modifications of the statutes and codes incorporated herein are intended to be made a part of this section.

(c) ***State Contract, Appointment of Inspectors, Compliance Required.***

(1) ***State Contract.*** In order to assure compliance with the requirements of the State of Wisconsin related to the inspection and certification of weights and measures, the Village shall contract with the State of Wisconsin Department of Agriculture, Trade and Consumer Protection, pursuant to Wis. Stat. § [98.04\(2\)](#), in lieu of the establishment of a department of weights and measures.

(2) ***Appointment of Inspectors.*** The provisions of the contract set forth in subsection (c)(1) shall provide for the enforcement of the statutes and regulations set forth herein, and the Village hereby grants the authority and duties of sealers and inspectors required by this section to the State of Wisconsin Department of Agriculture, Trade and Consumer Protection.

(3) ***Compliance Required.*** All persons and entities required to be licensed hereunder shall comply with the enforcement of the statutes and regulations set forth herein, shall comply with the orders and inspections of the inspectors appointed herein, and shall comply with the licensing requirements set forth herein.

(d) ***Definitions.*** As used in this section, the following terms shall have the meanings indicated:

Weights and Measures. Weights and measures of every kind, instruments and devices for weighing and measuring, and any appliances and accessories used with any or all such instruments and devices, except meters for the measurement of electric, gas (natural and manufactured) or water when the same are operated in a public utility system. Weights and measures shall include devices used or employed in establishing the size, quantity, extent, area or measurement of quantities, things, produce or articles for sale, hire or award, or in computing any basic charge or payment for services rendered on the basis of weight or measure and shall include, but not be limited to, commodities, liquid measuring devices, scales, weighing, measuring and price verification systems, timing devices and linear measuring devices.

Weights and Measures Program. The program that includes administration and enforcement of this section, Wis. Stats. [Chapter 98](#), applicable Wisconsin Administrative Code provisions, and any related actions.

(e) ***Weights and Measures License Required.***

(1) ***License Requirements.*** Except as provided in subsection (e)(2), no person or entity shall use, operate or maintain any commercial weights and measures as defined in this section unless the person or entity is licensed by a weights and measures license issued

pursuant to the provisions of this section.

(2) **Exemptions.** Sales by a person registered as a direct seller or by a holder of a farmer's market, vendor vehicle or special event permit are exempt from licensing under this section, but if any person exempted herein is required by the state to hold a state certificate of examination by the sealer of weights and measures, a copy of said certificate shall be provided to the Village with his or her application for direct seller registration or a farmer's market, vendor vehicle or special events permit.

(f) **Application for License.** An application for a weights and measures license shall be made in writing on a form provided by the Village Clerk and shall be signed by the owner of the commercial business or by its authorized agent. Such application shall state the type of the business, the type and number of weighing, measuring and scanning devices used by the business, the location of the devices, the number of check-out lanes present on the premises, the applicant's full name, post office address and telephone, and whether such applicant is an individual, partnership, limited liability company, corporation or other entity. If the applicant is a partnership, the application shall state the names and addresses of each partner. If the applicant is a corporation or limited liability company, the application shall state the names and addresses of all members, officers and agents of the applicant, including the registered agent thereof.

(g) **Issuance of License.** Upon compliance with this section, the Village Clerk shall issue a license to the applicant upon payment of the annual license fee set by the Village Board. Each store or other business shall require a separate license.

(h) **License Term.** A license issued under this section shall expire on June 30 of each year.

(i) **Enforcement for Nonrenewal.** It shall be the duty of the Village Clerk to notify appropriate village officials and to order the immediate enforcement of the provisions of this section in cases involving a failure to renew a weights and measures license. A licensee shall be prohibited from engaging in any business involved in weights and measures until such time as a valid license has been obtained under the provisions of this section.

(j) **Fees Assessment.**

(1) **Annual Assessment.** The Village Board shall annually assess fees to each licensee based on the number and type of weights and measures devices it operates as of the date of licensure or the date of renewal. The total of the fees assessed and collected under this subsection shall not exceed the actual costs of the weights and measures contract between the Village and the State.

(2) **Clerk to Prepare Assessment Schedule.** The Village Clerk shall at least annually prepare a proposed schedule of assessments which shall be based upon the state contract charges and the number of weights and measures devices *being* operated, which schedule shall be submitted to the Village Board. A copy of the proposed schedule, together with notice of the date and time at which the Village Board will consider the assessments, shall be mailed to each licensee.

(3) **Village Board to Determine Assessment.** Not less than ten days after the mailing set forth in subsection (j)(2), the Village Board shall consider the Clerk's proposed schedule of assessments and determine the schedule of assessments on a reasonable basis.

The Village Clerk shall mail to each licensee an invoice for the amount of the fee assessment to the licensee as determined by the Village Board, and each licensee shall pay the fee assessed within 30 days after the date the notice is mailed.

(4) ***Failure to Pay Assessment.*** If the assessed fee is not paid within 30 days of the date of the mailing of the invoice, an additional administrative collection charge of ten percent of the total assessment shall be added to the amount due, plus interest shall accrue on the assessment at the rate of 1.5 percent per month or fraction thereof until paid. To the extent permitted by law, if the licensee is the owner of the real estate where the licensed business is located, any delinquent assessment shall be extended upon the current or the next tax bill as a special charge against the real estate premises for current services. No license shall be issued or renewed under this section if the licensee is delinquent in the payment of a fee assessed under this section.

(5) ***Mailing of Notices.*** Schedules, notices and invoices shall be considered mailed to a licensee when mailed by first class mail, postage prepaid, to the licensee at the licensee's address as shown on the application form.

(6) ***Change of Ownership.*** If the ownership of a commercial business licensed under this section is transferred during a license year, the owner of the business as of July 1 of the license year shall be liable and responsible for the payment of the fees assessed under this section.

(k) ***Violations.*** In addition to any other remedy, any person who fails to comply with the provisions of this section shall, upon conviction thereof, be subject to the penalties as set forth in Sec. 1.111 of this Code. Each day a violation exists or continues shall constitute a separate offense.

(Ord. 15-028 of 1-23-2016)

SECTION 3: SEVERABILITY. If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. If an application of this Ordinance to a particular structure, land, or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land, or water not specifically included in said judgment. If any requirement or limitation attached to an authorization given under this Ordinance is found invalid, it shall be presumed that the authorization would not have been granted without the requirement or limitation and, therefore, said authorization shall also be invalid. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 4: EFFECTIVE DATE. This ordinance shall take effect upon approval and publication.

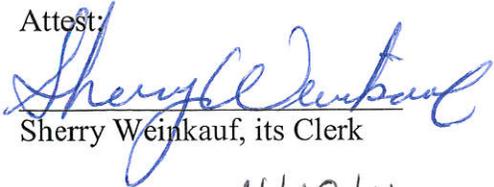
Dated the 18th day of April, 2016

WESTON VILLAGE BOARD

By:


Barbara Ermeling, its President

Attest:



Sherry Weinkauff, its Clerk

APPROVED: 4/19/16

PUBLISHED: 4/20/16

Notice of Newly Enacted Ordinances

Please take notice that the Village Board of Weston, Wisconsin enacted on April 18, 2016, Ordinance No. 16-023: An Ordinance Repealing Chapter 18 of the Code of Ordinances of the Village of Weston Entitled Businesses and Amending and Recreating the Same.

The full text of Ordinance No. 16-023 may be obtained at the office of the Village Clerk, 5500 Schofield Avenue, Weston, Wisconsin or through the Village's website at <http://www.westonwi.gov>.

Dated this 19th day of April, 2016
Sherry Weinkauff, Village Clerk

Published: 4/20/16