

CHAPTER 7 LICENSING & REGULATION

7.01 Definitions

Animals

- 7.02 Issuance of Dog and Kennel Licenses**
- 7.03 Rabies Vaccination Required for Dog License**
- 7.04 Late Fees**
- 7.05 Rabies Quarantine**
- 7.06 Restrictions on Keeping of Dogs, Cats, Fowl and Other Animals;**
- 7.07 Impoundment of Animals**
- 7.08 Duty of Owner in Case of Dog or Cat Bite**
- 7.09 Animal Feces**
- 7.10 Injury to Property by Animals**
- 7.11 Barking Dogs or Crying Cats**
- 7.12 Prohibited and Protected Animals, Fowl, Reptiles, Insects and Farm Animals**
- 7.13 Sale of Rabbits, Chicks or Artificially Colored Animals**
- 7.14 Providing Proper Food and Drink to Confined Animals**
- 7.15 Providing Proper Shelter**
- 7.16 Neglected or Abandoned Animals**
- 7.17 Cruelty to Animals and Birds Prohibited**
- 7.18 Trapping of Animals**
- 7.19 Keeping of Bees**
- 7.20 Penalties**

Cigarettes

- 7.21 Cigarette Licenses**

Transient Merchants

- 7.22 Registration Required**
- 7.23 Registration**
- 7.24 Appeal**
- 7.25 Regulation of Transient Merchants**
- 7.26 Exemptions**
- 7.27 Revocation of Registration or License**
- 7.28 Special Event Vending Permit**

Fireworks

- 7.29 Sale of Fireworks**
- 7.30 Use of Fireworks**

- 7.31 Storage and Handling
- 7.32 Parental Liability
- 7.33 Crop Protection Signs

Street Use Permits

- 7.34 Purpose
- 7.35 Application
- 7.36 Representative at Meeting
- 7.37 Denial of Street Use Permit
- 7.38 Insurance
- 7.39 Termination of a Street Use Permit

Nonmetallic Mining

- 7.40 Statutory Provisions Adopted
- 7.41 Permit required for Nonmetallic Mining
- 7.42 Exempt Activities
- 7.43 Permit Revocation
- 7.44 Blasting and/or Rock Crushing

Adult Entertainment

- 7.45 Purpose
- 7.46 License Required
- 7.47 License Application, Review and Issuance
- 7.48 Standards for Adult Entertainment Establishment License
- 7.49 Regulations
- 7.50 Standards for Issuance of Adult Oriented Entertainment License
- 7.51 Physical Layouts of Adult Oriented Establishments
- 7.52 Location
- 7.53 Suspension, Revocation or Nonrenewal of Licenses
- 7.54 Renewal of License
- 7.55 Responsibilities of Operators
- 7.56 Registration of Operators and Employees
- 7.57 Penalty

General Provisions

- 7.58 Licensees Required to Pay Local Taxes, Assessments and Claims;
- 7.59 Issuance of Licenses

CHAPTER 7

LICENSING & REGULATION

SECTION 7.01 Definitions.

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

- (a) **Adult Bath House.** An establishment or business which provides the service of baths of all kinds, including all forms and methods of hydrotherapy, that is not operated by a medical practitioner or by a professional physical therapist licensed by the State of Wisconsin and which establishment provides to its patrons an opportunity for engaging in specified sexual activities as defined in this Section.
- (b) **Adult Body Painting Studio.** An establishment or business wherein patrons are afforded an opportunity to paint images on a body that is wholly or partially nude. For purposes of this Section, an adult body-painting studio shall not be deemed to include a tattoo parlor.
- (c) **Adult Bookstore.** An establishment having as a substantial or significant portion of its stock and trade in books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specific anatomical areas as defined herein. This includes an establishment having as its stock in trade, for sale, rent, trade, lease, inspection or viewing books, films, video cassettes, motion pictures, magazines or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specific sexual activities or specified anatomical areas, and in conjunction therewith have facilities for the presentation of adult entertainment, including adult-oriented videotapes, films motion pictures or other offered entertainment for observation by patrons therein.
- (d) **Adult Cabaret.** A cabaret that features male or female impersonators or similar entertainers.
- (e) **Adult Entertainment Establishment.** Any establishment that, as part of its business, exhibits any motion pictures, live performance, display or dance of any type, which has a significant or substantial portion of such performance or is distinguished or characterized by an emphasis on, any actual or simulated performance of specified sexual activities, or exhibition and viewing of specified anatomical areas, as defined herein, appearing unclothed, or the removal of articles of clothing to reveal specified anatomical areas.
- (f) **Adult Mini-Motion Picture Theater.** An enclosed building with a capacity for less than fifty (50) people, including establishments that have coin operated video or motion picture booths, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein for observation by patrons therein.

- (g) **Adult Modeling Studio.** An establishment or business which provides the services of modeling for the purpose of reproducing the human body wholly or partially nude by means of photography, painting, sketching, drawing or otherwise.
- (h) **Adult Motel.** A hotel, motel, or similar commercial establishment which:
 - (1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and which may have a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or
 - (2) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
 - (3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.
- (i) **Adult Motion Picture Theater.** An enclosed building with a capacity of fifty (50) or more people at which a significant or substantial portion of the material presented is distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein for observation by patrons therein.
- (j) **Adult Motion Picture Theater (Outdoor).** A parcel of land from which individuals may view a motion picture presented out of doors which presents material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activity or specified anatomical areas, as defined herein, for observation by patrons.
- (k) **Adult Novelty Shop.** An establishment or business having as a substantial or significant portion of its stock and trade in novelty or other items which are distinguished or characterized by their emphasis on or designed for, specified sexual activities or specified anatomical areas, as defined herein, or stimulating such activity.
- (l) **Adult Oriented Establishment.** An establishment which includes, but is not limited to, adult bookstores, adult motion picture theaters, adult mini-motion theaters, adult bath houses, adult body painting studios, adult motels, adult novelty shops or adult cabarets, and further means any premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common area of the premises for the purposes of viewing adult oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, regardless of whether such adult entertainment is held, conducted, operated or maintained for profit, direct or indirect. An adult oriented establishment further includes, without being limited to, any adult entertainment studio or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.

- (m) **Animal.** Mammals, reptiles, fowl and birds.
- (n) **At Large.** To be off the premises of the owner and not under the control of some person either by leash or otherwise, but a dog or cat within an automobile of its owner, or in an automobile of any other person with the consent of the owner of said dog or cat, shall be deemed to be upon the owner's premises.
- (o) **Blasting.** A method of loosening, moving or shattering masses of solid matter by use of explosive compounds to prepare stone for crushing, to prepare stone for building and/or ornamental use, or to prepare property for development.
- (p) **Booth, Room or Cubicle.** Such enclosures as are specifically offered to the public or members of an adult oriented establishment for hire or for a fee as part of a business operated on the premises which offers as part of its business the entertainment to be viewed within the enclosure; which shall include, without limitation, such enclosures wherein the entertainment is dispensed for a fee, but a fee is not charged for mere access to the enclosure. However, booth, room, or cubicle does not mean such enclosures that are private offices used by the owners, managers or persons employed on the premises for attending to the tasks of their employment, which enclosures are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing entertainment for a fee, and are not open to anyone other than employees; nor shall this definition apply to hotels, motels or establishments licensed by the State of Wisconsin pursuant to Chapter 50 of the Wisconsin Statutes.
- (q) **Cat.** Any feline, regardless of age or sex.
- (r) **Charitable Organization.** Shall include any benevolent, philanthropic, religious, patriotic or (eleemosynary) person, partnership, association or corporation, or one purporting to be such, including, for example, Boy Scouts, Girl Scouts, 4-H Clubs and school organizations.
- (s) **Church.** A building whether situated within the Village or not, in which people regularly assemble for religious worship intended primarily for purposes connected with such worship or for propagating a particular form of religious belief.
- (t) **Clerk-Treasurer.** The Village of Arlington Clerk-Treasurer or Deputy Clerk-Treasurer. Otherwise referred to as Village Clerk.
- (u) **Community.** Village of Arlington, Columbia County, Wisconsin.
- (v) **Cruel.** Causing unnecessary and excessive pain or suffering or unjustifiable injury or death.
- (w) **Customer.** Any individual who:
 - (1) Is allowed to enter an adult oriented establishment in return for the payment of an admission fee or any other form of consideration or gratuity; or
 - (2) Enters an adult oriented business and purchases, rents or otherwise partakes of any merchandise, goods, entertainment or other services offered therein; or
 - (3) Is a member of and on the premises of an adult oriented establishment operating as a private club.
- (x) **Day Care Center.** A facility licensed by the State of Wisconsin pursuant to Wis. Stats § 48.65, whether situated within the Village or not.

- (y) **Dog.** Any canine, regardless of age or sex.
- (z) **Door, Curtin or Portal Partition.** A nontransparent closure device which prevents activity taking place within a booth, room or cubicle from being seen or viewed from outside the booth, room or cubicle.
- (aa) **Employee.** Any and all individuals, including independent contractors, who work in or at or render any services directly or indirectly related to the operation of an adult oriented establishment.
- (bb) **Entertainer.** Any person who provides entertainment within an adult oriented establishment as defined in this Ordinance, regardless of whether a fee is charged or accepted for entertainment and regardless of whether entertainment is provided as an employee or independent contractor.
- (cc) **Environmental Pollution.** Has the meaning specified under Sec. 295.11(2), Wis. Stats.
- (dd) **Farm Animal.** Any bovine, equine, pig, chicken, fowl or other warm-blooded animal normally raised on farms in the United States and used for food or fiber.
- (ee) **Fireworks.** Anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use, but does not include any of the following:
 - (1) Fuel or a lubricant.
 - (2) A firearm cartridge or shotgun shell.
 - (3) A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.
 - (4) A match, cigarette lighter, stove, furnace, candle, lantern or space heater.
 - (5) A cap containing not more than one quarter ($\frac{1}{4}$) grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.
 - (6) A toy snake that contains no mercury.
 - (7) A model rocket engine.
 - (8) Tobacco and a tobacco product.
 - (9) A sparkler on a wire or wood stick not exceeding thirty-six (36) inches in length or one quarter ($\frac{1}{4}$) inch in outside diameter which does not contain magnesium, chlorate or perchlorate.
 - (10) A device designed to spray out paper confetti or streamers and which contains less than one quarter ($\frac{1}{4}$) grain of explosive mixture.
 - (11) A device designed to produce an audible sound but not explode, spark, move or emit an external flame after ignition and which does not exceed three (3) grams in total weight.
 - (12) A device that emits smoke with no external flame and does not leave the ground.
 - (13) A cylindrical fountain not exceeding one hundred (100) grams in total weight with an inside tube diameter not exceeding three quarter ($\frac{3}{4}$) inch, designed to sit on the ground and emit only sparks and smoke.
 - (14) A cone fountain not exceeding seventy-five (75) grams in total weight, designed to sit on the ground and emit only sparks and smoke.
- (ff) **Harmful to Minors.** That quality of any description or representation, in whatever form, of nudity, specified sexual activities or specified anatomical

areas, which taken as a whole appeals to the prurient interest in sex, which taken as a whole portrays sexual conduct in a patently offensive way, and which taken as a whole does not have serious literary, artistic, political or scientific value. Whether a work appeals to the prurient interest and whether it depicts or describes sexual conduct in a patently offensive way, and whether it has serious literary, artistic, political or scientific value are to be determined by applying contemporary community standards in the adult community as a whole with respect to what is suitable material for minors.

- (gg) **Kennel.** Any lot wherein or whereon five (5) or more dogs are kept. Kennel also is defined as an establishment wherein or whereon dogs or cats are kept for purposes of boarding, temporary care, breeding, sale or sporting purposes.
- (hh) **Knowingly.** Having general knowledge of, or reason to know, or a belief or ground for belief that warrants further inspection or inquiry of both:
 - (1) The character and content of any material described herein which is reasonably suspect under this Section; and
 - (2) The age of a minor, provided, however, that an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable *bona fide* attempt to ascertain the true age of such minor.
- (ii) **Knowledge of Minor's Age.** Means:
 - (1) Knowledge or information that the individual is a minor; and
 - (2) Reason to know, or a belief or grounds for belief, which warrants further inspection or inquiry of the age of the minor.
- (jj) **Law Enforcement Officer.** Has that meaning as appears in Sec. 967.02(5), Wis. Stats., and includes a humane officer under Sec. 173.07, Wis. Stats., or animal control officer but does not include a conservation warden appointed under Sec. 23.10, Wis. Stats.
- (kk) **Manager.** The operator or agent licensed under this Ordinance who shall not be licensed as a massage technician.
- (ll) **Merchandise.** Shall include personal property of any kind, and shall include merchandise, goods, or materials provided incidental to services offered or sold. The sale of merchandise includes donations required by the seller for the retention of merchandise by a donor or prospective customer.
- (mm) **Minor.** Any individual under the age of eighteen (18) years.
- (nn) **Neutered.** A dog or cat having nonfunctional reproductive organs.
- (oo) **Nonmetallic Mining or Nonmetallic Mining Operation.** Operations or activities for the extraction from the earth for sale or use by the operator of mineral aggregates such as stone, sand and gravel, fill material and nonmetallic minerals such as asbestos, beryl, clay, feldspar, peat and talc, related operations or activities such as excavation, grading or dredging if the purpose of those operations or activities is the extraction of mineral aggregates and nonmetallic minerals and related processes such as crushing, screening, scalping, dewatering and blending.
- (pp) **Nonmetallic Mining Refuse.** Waste soil, rock, mineral, liquid, vegetation and other waste material resulting from a nonmetallic mining operation. This term does not include merchantable by-products resulting directly from or displaced by the nonmetallic mining operation.

- (qq) **Nonmetallic Mining Site or Sites.** The location where a nonmetallic mining operation is proposed or conducted, including all surface areas from which materials are removed, related storage and processing areas, areas where nonmetallic mining refuse is deposited and areas disturbed by the nonmetallic mining operation by activities such as the construction or improvement of roads or haulageways.
- (rr) **Nudity.** The showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering or the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of covered male genitals in a discernible turgid state.
- (ss) **Operator.** As it pertains to Sections 7.41 through 7.45: Any person who is engaged in a nonmetallic mining operation or nonmetallic mining site reclamation or who applies for or holds a nonmetallic mining permit issued under this nonmetallic mining reclamation ordinance whether individually, jointly or through subsidiaries, agents, employees, contractors or subcontractors.
- (tt) **Operator.** As it pertains to Sections 7.46 through 7.58: Any person operating, conducting, maintaining or owning any adult-oriented establishment or massage establishment.
- (uu) **Owner.** Any person owning, harboring or keeping a dog or cat, or the occupant of any premises on which a dog or cat remains or to which it customarily returns daily for a period of ten (10) days.
- (vv) **Patron.** Any individual who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give any consideration therefore.
- (ww) **Permanent Merchant.** Any person who, for at least one (1) year prior to the consideration of the application of this Chapter to said merchant:
 - (1) Has continuously operated an established place of business in the Village; or
 - (2) Has continuously resided in the Village and now does business from his residence.
- (xx) **Person.** An individual or a group of people, a firm, association, corporation or other legal entity recognized by the State of Wisconsin as being capable of owning property or engaging in business operations.
- (yy) **Pet.** An animal kept and treated as a pet.
- (zz) **Reclamation.** The rehabilitation of a nonmetallic mining site including, but not limited to, removal of nonmetallic mining refuse, grading of the site, replacement of topsoil, stabilization of soil conditions, establishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution, construction of fences and, if practical, restoration of plant, fish and wildlife habitat.
- (aaa) **Replacement of Topsoil.** The replacement of the topsoil which was removed or disturbed by a nonmetallic mining operation or the provision of soil which is at least as adequate as the topsoil which was removed or disturbed for the purposes of providing adequate vegetative cover and stabilization of soil conditions.

- (bbb) **Residential.** Pertaining to the use of land, whether situated within the Village or not, for premises such as homes, townhouses, duplexes, condominiums, apartments and mobile homes, which contain habitable rooms for non-transient occupancy and which are designed primarily for living, sleeping, cooking and eating therein. A premise which is designed primarily for living, sleeping working and eating therein shall be deemed to be residential in character, unless it is actually occupied and used exclusively for other purposes. Hotels, motels, boarding houses, nursing homes and hospitals shall not be considered to be residential.
- (ccc) **Residential Lot.** A parcel zoned as residential, occupied or to be occupied by a dwelling, platted or unplatted. For the purpose of this Chapter, any vacant parcel or parcels adjoining a dwelling and under the same ownership shall constitute one (1) lot.
- (ddd) **Rock Crusher.** Any device, machine, apparatus or equipment used either individually or in conjunction with any other device, machine, apparatus or equipment for the purpose of crushing, grinding, breaking or pulverizing rock or stone.
- (eee) **Sadomasochistic Abuse.** Flagellation or torture by an individual clad in undergarments, a mask, or bizarre costume, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed.
- (fff) **School.** A building, whether situated within the Village or not, where people regularly assemble for the purpose of instruction or education, together with playgrounds, stadia and other structures or grounds used in conjunction therewith. The term is limited to:
 - (1) Public and private schools used for primary or secondary education in which any regular kindergarten or grades one (1) through twelve (12) classes are taught; and
 - (2) Special educational facilities in which students who have physical or learning disabilities receive specialized education in lieu of attending regular classes in kindergarten or any of grades one (1) through twelve (12).
- (ggg) **Sexual Conduct.** The commission of any of the following: sexual intercourse, sodomy, bestiality, necrophilia, human excretion, masturbation, sadism, masochism, fellatio, cunnilingus or lewd exhibition of human genitals.
- (hhh) **Sexual Intercourse.** Physical sexual contact between individuals that involves the genitalia of at least one (1) person including, but not limited to, heterosexual intercourse, sodomy, fellatio, or cunnilingus.
- (iii) **Specified Anatomical Areas.** Less than completely and opaquely covered:
 - (1) Human genitals, pubic region;
 - (2) Buttock;
 - (3) Female breast below a point immediately above the top of the areola;
 - (4) Human male genitals in a discernible turgid state, even if completely and opaquely covered.
- (jjj) **Specified Sexual Activities.** Simulated or actual:
 - (1) Showing of human genitals in a state of sexual stimulation or arousal;

- (2) Acts of human masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio or cunnilingus;
- (3) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.
- (kkk) **Substantial.** As used in various definitions, shall mean thirty percent (30%) or more of a business' stock in trade, display space, floor space or retail sales in any one month during the license year.
- (lll) **Transient Merchant.** Any individual who engages in the retail sale of merchandise at any place in the Village temporarily, and who does not intend to become, and does not become, a permanent merchant in such place. The term shall include, but not be limited to, peddlers, solicitors and door to door salespersons. The sale of goods includes donations required by the transient merchant for the retention of goods by a donor or prospective customer. For purposes of this Section, "sale of merchandise" includes a sale in which the personal services rendered upon or in connection with the merchandise constitutes the greatest part of value for the price received, but does not include a farm auction sale conducted by or for a resident farmer of personal property used on the farm, or the sale of produce or other perishable products at retail or wholesale by a resident of this state.
- (mmm) **Untagged.** Not having a valid license tag attached to a collar kept on the dog whenever the dog is outdoors unless the dog is securely confined in a fenced area.
- (nnn) **Waiting Area.** An area adjacent to the main entrance that is separate from any area where massages are given.

ANIMALS

SECTION 7.02 Issuance of Dog and Kennel Licenses.

- (a) **Dog Licenses.**
 - (1) It shall be unlawful for any person in the Village of Arlington to own, harbor or keep any dog more than five (5) months of age without complying with the provisions of this Chapter, relating to the listing, licensing and tagging of the same.
 - (2) The owner of any dog more than five (5) months of age shall annually, or on or before the date the dog becomes five (5) months of age, pay a license tax and obtain a license.
 - (3) The minimum license tax under this Section shall be established by resolution of the Village Board.
 - (4) Upon payment of the required license tax and upon presentation of evidence that the dog is currently immunized against rabies, the Village Clerk shall complete and issue to the owner a license for such dog containing all information required by state law. The Village Clerk shall also deliver to the owner, at the time of issuance of the license, a tag of durable material bearing the same serial number as the license, the name of the county in which issued and the license year. Following the initial

issuance of a license tag, replacement tags may be purchased by the dog owner for a fee equal to the cost of the initial license.

- (5) The owner shall securely attach the tag to a collar and the collar with the tag attached shall be kept on the dog for which the license is issued at all times, except as provided in Section 7.03(b).
- (6) The fact that a dog is without a tag attached to the dog by means of a collar shall be presumptive evidence that the dog is unlicensed. Any law enforcement or humane officer shall seize, impound or restrain any dog for which a dog license is required which is found without such tag attached.
- (7) Notwithstanding the foregoing, every dog specifically trained to lead blind or deaf persons is exempt from the dog license tax, and every person owning such a dog shall receive annually a free dog license from the Village Clerk upon application therefore.

(b) **Kennel Licenses.**

- (1) Any person who keeps or operates a kennel may, instead of the license tax for each dog required by this Chapter, apply for a kennel license for the keeping or operating of the kennel. Such person shall pay for the license year a license tax of as established by the Village Board by resolution. Upon payment of the required kennel license tax and, upon presentation of evidence that all dogs over five (5) months of age are currently immunized against rabies, the Village Clerk shall issue the kennel license and a number of tags equal to the number of dogs authorized to be kept in the kennel. Kennels may only be located in residential areas following a public hearing and approval by the Village Board; the Village Board may attach conditions to such approval as a conditional use under the Village's Zoning Code.
- (2) The owner or keeper of a kennel shall keep at all times a kennel license tag attached to the collar of each dog over five (5) months old kept by the owner or keeper under a kennel license. Further, the rabies vaccination tag or substitute tag shall remain attached to the dog for which it is issued at all times. The requirements of this paragraph do not apply to a show dog during competition, to a dog securely confined indoors or to a dog securely confined in a fenced area. No dog bearing a kennel tag shall be permitted to stray or to be taken anywhere outside the limits of the kennel unless the dog is on a leash or temporarily outside the limits of the kennel for the purposes of hunting, breeding, trial, training or competition.
- (3) A condition of a kennel license shall be that the licensed premises may be entered and inspected at any reasonable hour by appropriate Village officials without any warrant, and the application for a license hereunder shall be deemed a consent to this provision. Any refusal to permit such inspection shall automatically operate as a revocation of any license issued hereunder and shall be deemed a violation of this Section. Should any kennel be found to constitute a public nuisance, the license shall be revoked and the nuisance abated pursuant to Village ordinances.

- (4) No kennel license shall be issued to the keeper or operator of a kennel who fails to provide proper food and drink and proper shelter for the dogs in said kennel or who neglects or abandons said dogs. Designated officials shall investigate any complaints regarding the failure to maintain proper standards or investigate any kennel premises upon his own initiative. Expressly incorporated by reference in this Section as minimum standards for keepers or operators are the relevant provisions of Chapter 174 of the Wisconsin Statutes.

SECTION 7.03 Rabies Vaccination Required for Dog License.

- (a) **Rabies Vaccination.** The owner of a dog shall have the dog vaccinated against rabies by a veterinarian within thirty (30) days after the dog reaches five (5) months of age and revaccinated within one (1) year after the initial vaccination. If the owner obtains the dog or brings the dog into the Village of Arlington after the dog has reached five (5) months of age, the owner shall have the dog vaccinated against rabies within thirty (30) days after the dog is brought into the Village unless the dog has been vaccinated as evidenced by a current certificate of rabies vaccination. The owner of a dog shall have the dog revaccinated against rabies by a veterinarian before the date of that immunization expires as stated on the certificate of vaccination or, if no date is specified, within two (2) years after the previous vaccination. The certificate of vaccination shall meet the requirements of Sec. 95.21(2), Wis. Stats.
- (b) **Tag to be Attached.** The owner shall attach the rabies vaccination tag or a substitute tag to a collar and a collar with the tag attached shall be kept on the dog at all times, but this requirement does not apply to a dog during competition or training, to a dog while hunting, to a dog securely confined indoors or to a dog securely confined in a fenced area. The substitute tag shall be of a durable material and contain the same information as the rabies vaccination tag. The requirements of this paragraph do not apply to a dog which is not required to be vaccinated under Subsection (a).
- (c) **Duplicate Tag.** The veterinarian may furnish a new rabies vaccination tag with a new serial number to an owner in place of the original tag upon presentation of the certificate of rabies vaccination. The veterinarian shall then indicate the new tag number on the certificate and keep a record in the file.
- (d) **Cost.** The owner shall pay the cost of the rabies vaccination and the cost associated with the issuance of a certificate of rabies vaccination and the delivery of a rabies vaccination tag.

SECTION 7.04 Late Fees.

The Village Clerk shall assess and collect a late fee of five dollars (\$5.00) per State Statute from every owner of a dog five (5) months of age or over if the owner failed to obtain a license prior to April 1 of each year, or within thirty (30) days of acquiring ownership of a licensable dog or if the owner failed to obtain a license on or before the dog reached licensable age. An addition \$50.00 shall be assessed should owner not

obtain a license prior to May 1 each year. Subsequent violations will be \$150.00 (30 days after initial offense). Said late fees shall be charged in addition to the required license fee.

SECTION 7.05 Rabies Quarantine.

- (a) **Dogs and Cats Confined.** If a district is quarantined for rabies, all dogs and cats within the Village shall be kept securely confined, tied, leashed or muzzled. Any dog or cat not confined, tied, leashed or muzzled is declared a public nuisance and may be impounded. All officers shall cooperate in the enforcement of the quarantine. The Village Clerk shall promptly post in at least three (3) public places in the Village notices of quarantine
- (b) **Exemption of Vaccinated Dog or Cat from Village Quarantine.** A dog or cat which is immunized currently against rabies, as evidenced by a valid certificate of rabies vaccination or other evidence, is exempt from the Village quarantine provisions of Subsection (a) if a rabies vaccination tag or substitute tag is attached to the dog's or cat's collar.
- (c) **Quarantine or Sacrifice of an Animal Suspected of Biting a Person or Being Infected or Exposed to Rabies.**
 - (1) **Quarantine or Sacrifice of Dog or Cat.** A law enforcement officer or animal warden shall order a dog or cat quarantined if the officer has reason to believe that the animal bit a person, is infected with rabies or has been in contact with a rabid animal. If quarantine cannot be imposed because the dog or cat cannot be captured, the officer may kill the animal. The officer shall attempt to kill the animal in a humane manner and in a manner which avoids damage to the animal's head.
 - (2) **Sacrifice of Other Animals.** An officer may order killed or may kill an animal other than a dog or cat if the officer has reason to believe that the animal bit a person or is infected with rabies.
- (d) **Quarantine of Dog or Cat.**
 - (1) **Delivery to Isolation Facility or Quarantine on Premises of Owner.** A law enforcement officer who orders a dog or cat to be quarantined shall deliver the animal or shall order the animal delivered to an isolation facility as soon as possible but no later than twenty-four (24) hours after the original order is issued or the officer may order the animal to be quarantined on the premises of the owner if the animal is immunized currently against rabies as evidenced by a valid certificate of rabies vaccination or other evidence.
 - (2) **Health Risk to Humans.** If a dog or cat is ordered to be quarantined because there is reason to believe that the animal bit a person, the custodian of an isolation facility or the owner shall keep the animal under strict isolation under the supervision of a veterinarian for at least ten (10) days after the incident occurred. In this paragraph, "supervision of a veterinarian" includes, at a minimum, examination of the animal on the first day of isolation, on the last day of isolation and on one (1) intervening day. If the observation period is not extended and if the veterinarian certifies

that the dog or cat has not exhibited any signs of rabies, the animal may be released from quarantine at the end of the observation period.

- (3) **Risk to Animal Health.**
- a. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal and if the dog or cat is not currently immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for one hundred eighty (180) days. The owner shall have the animal vaccinated against rabies between one hundred fifty-five (155) and one hundred sixty-five (165) days after the exposure to a rabid animal.
 - b. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal but if the dog or cat is immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for sixty (60) days. The owner shall have the animal revaccinated against rabies as soon as possible after exposure to a rabid animal.
- (4) **Destruction of a Dog or Cat Exhibiting Symptoms of Rabies.** If a veterinarian determines that a dog or cat exhibits symptoms of rabies during the original or extended observation period, the veterinarian shall notify the owner and the officer who ordered the animal quarantined and the officer or veterinarian shall kill the animal in a humane manner and in a manner which avoids damage to the animal's head. If the dog or cat is suspected to have bitten a person, the veterinarian shall notify the person or the person's physician.
- (e) **Delivery of Carcass; Preparation; Examination by Laboratory of Hygiene.** A law enforcement officer who kills an animal shall deliver the carcass to a veterinarian or local health department. The veterinarian or local health department shall prepare the carcass, properly prepare and package the head of the animal in a manner to minimize deterioration, arrange for delivery by the most expeditious means feasible of the head of the animal to the State Laboratory of Hygiene and dispose of or arrange for the disposal of the remainder of the carcass in a manner which minimizes the risk or exposure to any rabies virus. The State Laboratory of Hygiene shall examine the specimen and determine if the animal was infected with rabies. The State Laboratory of Hygiene shall notify the Village, the veterinarian or local health department which prepared the carcass and, if the animal is suspected to have bitten a person, that person or the person's physician.
- (f) **Cooperation of Veterinarian.** Any practicing veterinarian who is requested to be involved in the rabies control program by an officer is encouraged to cooperate in a professional capacity with the Village, the State Laboratory of Hygiene, the local health department, the officer involved and, if the animal is suspected to have bitten a person, the person's physician.
- (g) **Responsibility for Quarantine and Laboratory Expenses.** The owner of an animal is responsible for any expenses incurred in connection with keeping the

animal in an isolation facility, supervision and examination of the animal by a veterinarian, preparation of the carcass for laboratory examination and the fee for the laboratory examination. If the owner is unknown, the Village is responsible for these expenses.

SECTION 7.06 Restrictions on Keeping of Dogs, Cats and Other Animals.

- (a) **Restrictions.** It shall be unlawful for any person within the Village of Arlington to own, harbor or keep any dog or cat which:
 - (1) Habitually pursues any vehicle upon any public street, alley or highway in the Village.
 - (2) Assaults or attacks any person or destroys property.
 - (3) Is habitually at large within the limits of the Village.
 - (4) Habitually barks or howls to the annoyance of any person or persons.
 - (5) Kills or wounds any animal kept as a pet.
 - (6) Is known by such person to be infected with rabies or to have been bitten by an animal known to have been infected with rabies.
 - (7) In the case of a dog, is unlicensed.
- (b) **Limitation of Number of Dogs and Cats.**
 - (1) No owner or occupant shall own, harbor or keep in its possession more than a total of four (4) dogs and/or cats in any residential unit without holding a valid kennel license.
 - (2) A litter of pups or kittens may be kept for up to six (6) months without counting against the number of dogs/cats as set forth in (1) above.
- (c) **Vicious Animals.**
 - (1) *Vicious Animal.* Vicious animal shall mean:
 - a. Any animal that, when unprovoked, inflicts bites, injures, kills, damages, or attacks a human being or domestic animal on public or private property; or
 - b. Any animal that has a propensity, tendency, or disposition, known to the owner thereof, to attack, without provocation, in a manner which may cause death, injury, damage, or which may otherwise endanger the safety of any human being or domestic animal; or,
 - c. Any animal trained to fight or used for fighting against another animal.
 - d. Exceptions:
 - 1. No animal may be declared vicious if death, injury, or damage is sustained by a person who, at the time such was sustained, was committing a criminal trespass upon the premises occupied by the owner of the animal, or was teasing, tormenting, abusing, or assaulting the animal or was committing or attempting to commit a crime or violating or attempting to violate an ordinance which protects person or property; or
 - 2. No animal may be declared vicious if death, injury, or damage was sustained by a domestic animal which, at the time such was

- sustained, was teasing, tormenting, abusing, or assaulting the animal; or
3. No animal may be declared vicious if the animal was protecting or defending a human being within the immediate vicinity of the animal from an unjustified attack or assault; or
 4. No animal may be declared vicious for acts committed by said animal while being utilized by a law enforcement agency for law enforcement purposes while under the control and direction of a law enforcement officer.
- (2) No person shall harbor or permit to remain on his or her premises any vicious animal.
- (3) *Procedure for declaring an animal vicious or dangerous.*
- a. A law enforcement officer may determine any animal to be vicious whenever, upon investigation, that officer finds that the animal meets the definition of vicious as defined above.
 - b. The law enforcement officer, upon making the determination that an animal is vicious, shall issue a written notice of the determination demanding that the owner remove said vicious animal from the Village within ten days.
 - c. If the owner objects to the officer's determination, he or she may file a written objection contesting the determination with the Village Clerk within five days of receiving the written notice.
 - d. Upon receipt of the owner's written objection within the prescribed five days, the matter shall be placed on the soonest Village Board agenda practicable for review.
 - e. The Village Board shall act as a quasi-judicial body allowing the animal's owner an opportunity to present evidence as to why the animal should not be declared vicious.
 - f. Pending the outcome of the hearing, the animal may be confined at the Columbia County Humane Society animal shelter, at the owner's expense. The Village may require the appealing party to post a bond in an amount sufficient to satisfy the cost of holding the animal during the appeal period.
 - g. After the Village Board has made a decision, the owner shall be notified of the decision in writing by certified mail. If a decision is made that the officer's determination was correct, the owner shall remove said vicious animal from the Village within ten days.
 - h. Failure to comply with a valid determination may result in the seizure and destruction of the animal.
- (d) **Animals Running at Large.**
- (1) No person having in his possession or ownership any animal shall allow the same to run at large within the Village. The owner of any animal, whether licensed or unlicensed, shall keep his animal tied or enclosed in a proper enclosure so as not to allow said animal to interfere with the passing public or neighbors. Any animal running at large unlicensed and

required by state law or Village Ordinance to be licensed shall be seized and impounded by a law enforcement officer.

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

SECTION 7.07 Impoundment of Animals.

- (a) **Animal Control Agency.**
 - (1) The Village of Arlington may contract with or enter into an agreement with such person, persons, organization or corporation to provide for the operation of an animal shelter, impoundment of stray animals, confinement of certain animals, disposition of impoundment animals and for assisting in the administration of rabies vaccination programs.
 - (2) The Village of Arlington does hereby delegate to any such animal control agency the authority to act pursuant to the provisions of this Section.
- (b) **Impounding of Animals.** In addition to any penalty hereinafter provided for a violation this Chapter, a Village Official or employee may impound any dog, cat or other animal which habitually pursues any vehicle upon any street, alley or highway of this Village, assaults or attacks any person, is at large within the Village, habitually barks, cries or howls, kills, wounds or worries any domestic animal or is infected with rabies. In order for an animal to be impounded, the impounding officer must see or hear the violation of this Section or have in his possession a signed statement of a complaining witness made under oath alleging the facts regarding the violation and containing an agreement to reimburse the Village for any damages it sustains for improper or illegal seizure.
- (c) **Claiming of Impounded Animals.** Any animal impounded pursuant to this Section shall be transferred by the Village Official impounding the animal to the Columbia County Humane Society. Following transfer to the Humane Society, the impounding officer, employee or agency shall notify the owner, personally or through the United States Mail if the owner is known that the animal has been impounded. The owner may reclaim the animal upon payment of any impoundment fees. No animal shall be released to the owner without being properly licensed if so required by state law or Village Ordinance.
- (d) **Village Not Liable for Impounding Animals.** The Village shall not be liable for the death or injury of any animal which has been seized and transported to the Columbia County Humane Society.

SECTION 7.08 Duty of Owner in Case of Dog or Cat Bite.

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

SECTION 7.09 Animal Feces.

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

SECTION 7.10 Injury to Property by Animals.

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

SECTION 7.11 Barking Dogs or Crying Cats.

It shall be unlawful for any person knowingly to keep or harbor any dog which habitually barks, howls or yelps, or any cat which habitually cries or howls to the great discomfort of the peace and quiet of the neighborhood or in such manner as to materially disturb or annoy persons in the neighborhood who are of ordinary sensibilities. Such dogs and cats are hereby declared to be a public nuisance. A dog or cat is considered to be in violation of this Section when two (2) formal, written complaints are filed with the Village Office within a four (4) week period.

**SECTION 7.12 Prohibited and Protected Animals, Fowl, Reptiles and Insects;
Farm Animals.**

- (a) **Protected Animals.**
 - (1) **Possession and Sale of Protected Animals.** It shall be unlawful for any person or entity to possess with intent to sell or offer for sale, or buy or attempt to buy, within the Village any of the following animals, alive or

dead, or any part or product thereof: All wild cats of the family felidae, polar bear (*thalarctos maritimus*), red wolf (*canis niger*), vicuna (*vicugna vicugna*), gray or timber wolf (*canis lupus*), sea otter (*enhydra lutris*), Pacific ridley turtle (*lepidochelys olivacea*), Atlantic green turtle (*chelonian mydas*), or Mexican ridley turtle (*lepidochelys kemp*).

- (2) **Compliance with Federal Regulation.** It shall be unlawful for any person to entity to buy, sell or offer for sale a native or foreign species or subspecies of mammal, bird, amphibian or reptile, or the dead body or parts thereof, which appears on the endangered species list designated by the United States Secretary of the Interior and published in the Code of Federal Regulations pursuant to the Endangered Species Act of 1973, 16 USC 1531.
 - (3) **Regulating the Importation of Certain Birds.** No person or entity shall import or cause to be imported into this Village any part of the plumage, skin or dead body of any species of hawk, owl or eagle. This paragraph shall not be construed to forbid or restrict the importation or use of the plumage, skin, body or any part thereof legally collected for use by the American Indians for ceremonial purposes or in the preservation of their tribal customs and heritage.
- (b) **Exceptions.** The provisions of Subsection (a) above shall not be deemed to prevent the lawful importation, possession, purchase or sale of any species by any public agency, institute of higher learning, persons holding federal permits, or by a person holding a Scientific Collectors Permit issued by the Secretary of the Department of Natural Resources of the state, or to any person or organization licensed to present a circus.
- (c) **Wild Animals; Prohibition on Keeping.** It shall be unlawful for any person or entity to keep, maintain or have in its possession or under its control within the Village any poisonous reptile or any other dangerous or carnivorous wild animal, insect or reptile, any vicious or dangerous domesticated animal or any other animal or reptile of wild, vicious or dangerous propensities. Specifically, it shall be unlawful for any person or entity to keep, maintain or have in its possession or under its control within the Village any of the following animals, reptiles or insects:
- (1) All poisonous animals and reptiles including rear-fang snakes.
 - (2) Apes: Chimpanzees (*Pan*); gibbons (*Hylobates*); gorillas (*Gorilla*); Orangutans (*Pongo*); and siamangs (*Symphalangus*).
 - (3) Baboons (*Papoi*, *Mandrillus*).
 - (4) Bears (*Ursidae*).
 - (5) Bison (*Bison*).
 - (6) Cheetahs (*Acinonyx jubatus*).
 - (7) Crocodilians (*Crocodylia*), thirty (30) inches in length or more.
 - (8) Constrictor snakes.
 - (9) Coyotes (*Canis latrans*).
 - (10) Deer (*Cervidae*); includes all members of the deer family; for example, white tailed deer, elk, antelope and moose.
 - (11) Elephants (*Elephas* and *Loxodonta*).

- (12) Ferrets.
 - (13) Game cocks and other fighting birds.
 - (14) Hippopotami (Hippopotamidae).
 - (15) Hyenas (Hyaenidae).
 - (16) Jaguars (*Panthera onca*).
 - (17) Leopards (*Panthera pardus*).
 - (18) Lions (*Panthera leo*).
 - (19) Lynxes (*Lynx*).
 - (20) Monkeys, old world (Cercopithecidae).
 - (21) Ostriches (*Struthio*).
 - (22) Pumas (*Felis concolor*); also known as cougars, mountain lions and panthers.
 - (23) Rhinoceroses (*Rhinocero tidae*).
 - (24) Sharks (class Chondrichthyes).
 - (25) Snow leopards (*Panthera uncia*).
 - (26) Tigers (*Panthera tigris*).
 - (27) Wolves (*Canis lupus*) and any form of wolf/dog hybrid.
 - (28) Poisonous insects.
- (d) **Exceptions; Pet Shops.** The prohibitions of Subsection (c) above shall not apply where the creatures are in the care, custody or control of any of the following: a veterinarian for treatment; agricultural fairs; shows or projects of the 4-H clubs; a display for judging purposes; an itinerant or transient carnival, circus or other show; dog or cat shows or trials; public or private educational institutions; licensed pet shops; zoological gardens; if:
- (1) Their location conforms to the provisions of the zoning ordinance of the Village.
 - (2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.
 - (3) Animals are maintained in quarters so constructed as to prevent their escape.
 - (4) No person lives or resides within one hundred (100) feet of the quarters in which the animals are kept.
- (e) **Farm Animals.** Except on properties zoned in an agricultural classification, no person shall own, keep, harbor or board any cattle, horses, ponies, swine, goats, sheep or fowl other than chickens [more than two (2)] or rabbits [more than two (2)]. For purposes of this Subsection, the term "swine" shall not include any miniature pigs of either sex weighing less than eighty (80) pounds which are intended for and kept as domestic pets.
- (f) **Limitation on Number of Chickens and Rabbits.**
- (1) **Purpose.** The keeping of chickens and rabbits within the Village of Arlington may detract from and may be detrimental to healthful and comfortable life in the Village. The keeping of more than five (5) chickens and two (2) rabbits is declared a public nuisance.
 - (2) **Number Limited.**
 - a. No owner or occupant shall own, harbor, or keep in its possession more than a total of five (5) chickens and two (2) rabbits upon any

lot within the Village without the prior issuance of a license by the Village Board as set forth in Section (3) below.

- b. The keeping of up to five (5) chickens and two (2) rabbits is conditioned upon the following:
 - 1. No owner or occupant shall keep any rooster.
 - 2. No owner or occupant shall slaughter any chickens and/or rabbits on the lot.
 - 3. The chickens and/or rabbits shall be provided with a covered and fenced enclosure and must be kept in the covered and fenced enclosure at all times.
 - 4. No covered enclosure shall be located closer than twenty-five (25) feet from any residential or commercial structure (excluding accessory buildings) on an adjacent lot.
 - 5. The covered and fenced enclosure area for any chickens and/or rabbits shall conform with any and all regulations regarding accessory buildings for the zoning district in which the covered and fenced enclosure is situated.

(3) **License Required.**

- a. Any person who keeps chickens and/or rabbits in the Village shall obtain an annual license prior to January 1 of each year or within thirty (30) days of first acquiring the chickens and/or rabbits.
- b. Any person requesting a license shall file an application for a license with the Village Clerk and pay an application fee that shall be established by resolution of the Village Board. The application fee shall be non-refundable and shall be established to defray the cost of inspecting the applicant's premises for compliance with the terms and conditions of this section.
- c. Upon receipt of an application for a license to house chickens and/or rabbits, the Village Clerk shall notify all residents within two hundred (200) feet of the applicant's address of the application being filed. If more than fifty percent (50%) of the residents within two hundred (200) feet of the applicant's property object within fourteen (14) days of being notified, the license shall be denied by the Village Board. Otherwise, the application for the license shall be heard by the Village Board at the first regularly scheduled meeting of the Board following the conclusion of the fourteen (14) day notification period.
- d. If the Village Board grants a license as set forth in paragraph 3 above, the applicant shall pay the license fee within five (5) days of approval by the Village Board. The fee for the license shall be established by resolution of the Village Board. The Village Clerk shall collect a fee and shall assess a late fee of five dollars (\$5.00) per day from the owner if the owner fails to obtain a license within the five (5) day period.

(4) **License Revocation.** If a complaint is made by anyone to a Village official that the terms of the license issued to the owner or the applicant is

being violated in any way, in addition to the penalties set forth in Section 7.21 of the Village Code, the Village, on its own motion, may seek to revoke the license of the owner or occupant. To revoke the license, the Village Board shall hold a hearing. At the hearing, the Village and the owner/occupant will be allowed to present testimony as to why the license should be or should not be revoked. Following testimony, the Village Board shall make its decision. The Village shall give at least fourteen (14) days written notice of the hearing to the owner or occupant, at the owner or occupant's last known address.

- (5) For purposes of this Section, "chicken" is defined as the Common Domestic Fowl (*gallus gallus*). The definition of chicken does not include any variety or breed of rooster, as roosters are specifically prohibited from being kept in the Village.

SECTION 7.13 Sale of Rabbits, Chicks or Artificially Colored Animals.

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

SECTION 7.14 Providing Proper Food and Drink to Confined Animals.

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

SECTION 7.15 Providing Proper Shelter.

- (a) **Proper Shelter.** No person owning or responsible for confining or impounding any animal shall fail to provide the animal with proper shelter as prescribed in this Section. In the case of farm animals, nothing in this Section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices in the particular county where the animal or shelter is located.
- (b) **Indoor Standards.** Minimum indoor standards of shelter shall include:
 - (1) **Ambient Temperatures.** The ambient temperature shall be compatible with the health of the animal.

- (2) **Ventilation.** Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.
- (c) **Outdoor Standards.** Minimum outdoor standards of shelter shall include:
 - (1) **Shelter from Sunlight.** When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, “caged” does not include farm fencing used to confine farm animals.
 - (2) **Shelter from Inclement Weather.**
 - a. **Animals generally.** Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.
 - b. **Dogs.** If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size to accommodate the dog shall be provided.
- (d) **Space Standards.** Minimum space requirements for both indoor and outdoor enclosures shall include:
 - (1) **Structural Strength.** The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.
 - (2) **Space Requirements.** Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.
- (e) **Sanitation Standards.** Minimum standards of sanitation for both indoor and outdoor enclosures shall include periodic cleaning to remove excreta and other waste materials, dirt and trash so as to minimize health hazards.

SECTION 7.16 Neglected or Abandoned Animals.

- (a) **Neglected or Abandoned Animals.**
 - (1) No person or entity may abandon any animal.
 - (2) Any law enforcement officer may remove, shelter and care for an animal determined by the officer to be cruelly exposed to the weather, starved or denied adequate water, neglected, abandoned or otherwise treated in a cruel manner and may deliver such animal to another person to be sheltered, cared for and given medical attention, if necessary. In all cases the owner, if known, shall be immediately notified and such officer, or other person, having possession of the animal shall have a lien thereon for its care, keeping and medical attention and the expense of notice.
 - (3) If the owner or custodian is unknown and cannot, with reasonable effort, be ascertained or does not, within five (5) days after notice, redeem the animal by paying the expenses incurred, it may be treated as a stray and dealt with as such.

- (4) Whenever, in the opinion of any such officer, an animal is hopelessly injured or diseased so as to be beyond the probability of recovery, it shall be lawful for such officer to kill such animal and the owner thereof shall not recover damages for the killing of such animal unless he shall prove that such killing was unwarranted.
 - (5) Wis. Stats. Section 173.10 regarding the investigation of Cruelty Complaints, and Wis. Stats. Section 173.24, regarding Reimbursement for Expenses, are hereby adopted by reference and made a part of this Chapter.
- (b) **Injured Animals.** No person or entity that owns, harbors or keeps any animal shall fail to provide proper medical attention to such animal when and if such animal becomes sick or injured. In the event the owner of such animal cannot be located, any law enforcement official or animal control agency with whom the Village has an agreement or contract shall have the authority to take custody of such animal for the purpose of providing medical treatment, and the owner thereof shall reimburse the person or organization for the costs of such treatment.

SECTION 7.17 Cruelty to Animals and Birds Prohibited.

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

is tied, staked out, caged or otherwise intentionally confined in a man-made enclosure, regardless of size.

SECTION 7.18 Trapping of Animals.

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

SECTION 7.19 Keeping of Bees.

- (a) It shall be unlawful for any person to establish or maintain any hive, stand or box where bees are kept or keep any bees in or upon any premises within the municipal limits of the Village unless the bees are kept in accordance with the following provisions:
 - (1) No hive, stand or box where bees are kept shall be located closer than twenty (20) feet to any property boundary. Such hives, stands or boxes may only be located in the rear yard.
 - (2) If bee colonies are kept within fifty (50) feet of any exterior boundary of the property on which the hive, stand or box is located, a barrier that will prevent bees from flying through it, no less than five (5) feet high, shall be installed and maintained along said exterior boundary. Said barrier may be either a natural planting or artificial.
 - (3) Fresh, clean watering facilities for bees shall be provided on the said premises.
 - (4) The bees and equipment shall be kept in accordance with the provisions of state law.
 - (5) A conditional user permit shall first be obtained pursuant to the Village Zoning Code.
- (b) Nothing in this Section shall be deemed or construed to prohibit the keeping of bees in a hive, stand or box located within a school or university building for the purpose of study or observation.

SECTION 7.20 Penalties.

- (a) Any person violating a provision of Sections 7.16 through 7.20 shall be subject to a forfeiture as outlined in the Village Deposit Schedule. This Section shall also permit the Village Attorney to apply to a court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating any aspect of this Chapter.
- (b) Anyone who violates a provision of Sections 7.02, 7.03, 7.04 or 7.05 of this Code of Ordinances or Chapter 174, Wis. Stats., shall be subject to a forfeiture of not less than twenty-five dollars (\$25.00) and not more than two hundred dollars (\$200.00) for the first offense and not less than one hundred dollars (\$100.00) and not more than four hundred dollars (\$400.00) for any subsequent offenses. An owner who refuses to comply with an order issued under Section 7.05 to deliver an animal to an officer, isolation facility or veterinarian or who does not comply with the conditions of an order that an animal be quarantined shall be fined not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) or imprisoned not more than sixty (60) days or both.
- (c) Any person who violates a provision of Sections 7.06 through 7.15 of this Code of Ordinances shall be subject to a forfeiture as outlined in the Village Deposit Schedule for the first violation and not less than fifty dollars (\$50.00) and not more than two hundred dollars (\$200.00) for subsequent violations.
- (d) Each day that a violation of this Chapter continues shall be deemed a separate violation. Any dog found to be the subject of a violation of this Section shall be subject to immediate seizure, impoundment and removal from the Village by Village officials in the event the owner or keeper of the dog fails to remove the dog from the Village. In addition to the foregoing penalties, any person who violates this Chapter shall pay all expenses including shelter, food, handling and veterinary care necessitated by the enforcement of this Chapter.

CIGARETTES

SECTION 7.21 Cigarette License.

- (a) **License Required.** No person or entity in the Village of Arlington shall, in any manner, directly or indirectly, upon any premises, or by any device, sell, exchange, barter, dispose of or give away, or keep for sale, any cigarette, cigarette paper or cigarette wrappers, or any substitute therefore, without first obtaining a license as hereinafter provided.
- (b) **Application for License; Fee.** Every person or entity desiring a license under this Section shall file with the Village Clerk a written application therefore, stating the name of the person and the place for which such license is desired. Each license shall be filed by the Village Clerk and shall name the licensee and the place wherein he is authorized to conduct such business, and the same shall not be delivered until the applicant shall pay to the Village Clerk a license fee as established by the Village Board by Resolution.

- (c) **Issuance and Term of License.** Licenses for the sale, exchange, barter, disposition of, or giving away or keeping for sale of cigarettes, cigarette paper or cigarette wrappers or any substitute therefore shall be issued by the Village Clerk. Each license shall be issued on the first day of July in each year, or thereafter whenever applied for, and shall continue in force from date of issuance until the succeeding June 30th unless sooner revoked for any violation of this Section.

TRANSIENT MERCHANTS

SECTION 7.22 Registration Required.

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

SECTION 7.23 Registration.

- (a) **Registration Information.** Applicants for registration must complete and return to the Village Clerk a registration form furnished by the Village Clerk which shall require the following information:
- (1) Name, permanent address and telephone number, and temporary address, if any;
 - (2) Height, weight, color of hair and eyes, and date of birth;
 - (3) Name, address and telephone number of the person or entity that the transient merchant represents or is employed by, or whose merchandise is being sold;
 - (4) Temporary address and telephone number from which business will be conducted, if any;
 - (5) Nature of business to be conducted and a brief description of the merchandise offered and any services offered;
 - (6) Proposed method of delivery of merchandise, if applicable;
 - (7) Make, model and license number of any vehicle to be used by applicant in the conduct of his business;
 - (8) Last cities, villages, towns, not to exceed three (3), where applicant conducted similar business just prior to making this registration.
 - (9) Place where applicant can be contacted for at least seven (7) days after leaving this Village;
 - (10) Statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's transient merchant business within the last five (5) years, the nature of the offence and the place of conviction.
- (b) **Identification and Certification.** Applicants shall present to the Village Clerk for examination:
- (1) A driver's license or some other proof of identity as may be reasonably required;

- (2) A state certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighing and measuring devices approved by state authorities;
 - (3) A state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than ninety (90) days prior to the date the application for license is made.
- (c) **License; Fees.** Except as provided by Section 7.27, no person or entity shall conduct any activity as a transient merchant without a license. Every applicant for a license shall pay a license fee as follows:
- (1) **Annual License.** The fee for an annual license shall be established by a resolution of the Village Board which shall be paid to the Village Clerk. Such license shall be for a calendar year and shall expire on December 31 following its issuance, provided however, that the fee shall be one-half (1/2) of the amount stipulated for a calendar year if it is issued on or after July 1 of any year.
 - (2) **Daily License.** The daily license fee shall be established by resolution of the Village Board which shall be paid to the Village Clerk. The license shall set forth the exact days on which such business may be carried out.
- (d) **Application Process.**
- (1) At the time of filing applications, a registration fee as established by the Village Board by resolution shall be paid to the Village Clerk to cover the cost of investigation of the facts stated in the applications and for processing said registration. Every member of a group must file a separate registration form and pay a separate registration fee.
 - (2) Upon receipt of each application, the Village Clerk may refer it immediately to appropriate law enforcement authorities for an investigation of the statements made in such registration, said investigation to be completed within five (5) days from the time of referral.
 - (3) Upon payment of said fees and the signing of said statement, the Village Clerk shall register the applicant as a transient merchant and date the entry.
 - (4) The Village Clerk shall refuse to register the applicant and issue a permit if it is determined, pursuant to the investigation above, that: the application contains any material omission or materially inaccurate statement; complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns, not exceeding three (3), in which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation or ordinance violation within the last five (5) years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or the applicant failed to comply with any applicable provision of this Section 7.24.

SECTION 7.24 Appeal.

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

SECTION 7.25 Regulation of Transient Merchants.

(a) Prohibited Practices.

- (1) A transient merchant shall be prohibited from: calling at any dwelling or other place between the hours of 9:00 p.m. and 8:00 a.m. except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning; calling at the rear door of any dwelling place; or remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.
- (2) A transient merchant shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any merchandise offered for sale, the purpose of his visit, his identity or the identity of the organization he represents. A charitable organization transient merchant shall specifically disclose what portion of the sale price of merchandise being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the merchandise.
- (3) No transient merchant shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.
- (4) No transient merchant shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a one hundred (100) foot radius of the source.
- (5) No transient merchant shall allow rubbish or litter to accumulate in or around the area in which he is conducting business.

(b) Disclosure Requirements.

- (1) After the initial greeting and before any other statement is made to a prospective customer, a transient merchant shall expressly disclose his name, the name of the company or organization he is affiliated with, if any, and the identity of merchandise or services he offers to sell.
- (2) If any sale of merchandise is made by a transient merchant or any sales order for the later delivery of merchandise is taken by the seller, the buyer shall have the right to cancel said transaction if it involves the extension of credit or is a cash transaction of more than twenty-five dollars (\$25.00), in accordance with the procedure as set forth in See. 423.203, Wis. Stats.; the seller shall give the buyer two (2) copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of Sections 423.203(l)(a)(b) and (c), (2) and (3), Wis. Stats.

- (3) If the transient merchant takes a sales order for the later delivery of merchandise, he 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.

SECTION 7.26 Exemptions.

The following shall be exempt from all provisions of sections 7.23 through 7.26:

- (a) Any person delivering newspapers, fuel, dairy products, bakery goods or other food stuffs to regular customers on established routes;
- (b) Any person selling merchandise at wholesale to dealers in such merchandise;
- (c) Any person selling Wisconsin agricultural products which the person has grown;
- (d) Any permanent merchant or employee thereof who takes orders at the home of the buyer for merchandise regularly offered for sale by such merchant within this county and who delivers such merchandise in their regular course of business;
- (e) Any person who has an established place of business where the merchandise being sold or is offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested, a home visit by, said person;
- (f) Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer;
- (g) Any person selling or offering for sale a service unconnected with the sale or offering for sale of merchandise;
- (h) Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law;
- (i) Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization, provided that there is submitted to the Village Clerk- Treasurer proof that such charitable organization is registered under Sec. 440.41, Wis. Stats. Any charitable organization engaging in the sale of merchandise and not registered under Sec. 440.41, Wis. Stats., or which is exempt from that statute's registration requirements, shall be required to register under this Chapter.
- (j) Any person who claims to be a permanent merchant, but against whom complaint has been made to the Village Clerk that such person is a transient merchant, provided that there is submitted to the Village Clerk proof that such person has leased for at least one (1) year, or purchased, the premises from which he/she is conducting business, or proof that such person has conducted such business in this Village for at least one (1) year prior to the date complaint was made.
- (k) Any individual licensed by an examining board as defined in Sec. 15.01(7), Wis. Stats.

- (l) Transient merchants while doing business at special events authorized by the Village Board.
- (m) Minors under eighteen (18) years of age who are residents of the Village.

SECTION 7.27 Revocation of Registration or License.

- (a) A transient merchant's registration or license may be revoked by the Village Board after notice and hearing if the registrant made any material omission or materially inaccurate statement in the application for registration, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales, violated any provision of Sections 7.23 through 7.26 of this Chapter or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling.
- (b) Written notice of the hearing shall be served personally or by regular mail to the address set forth on the registrant's application at least seventy-two (72) hours prior to the time set for the hearing; such notice contain the time and place of hearing and a statement of the acts upon which the hearing will be based.

SECTION 7.28 Special Event Vending Permit.

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

event to select vendors, salespersons and vending sites for the duration of the special event within its perimeter. The event's sponsor shall contact the Village Board at least one (1) week before the public hearing with an outline of the rules, regulations, fees, areas affected and a proposed resolution for exclusive vending rights. The determinations of the Village Board as to any specific day during which a transient merchant permit will not be valid shall be by resolution adopted at least four (4) weeks in advance of such specific day. Transient merchant permits shall be subject to invalidation for up to ten (10) days each vending year of any one (1) location as provided in this subdivision.

- (4) No person holding a transient merchant permit may sell or offer for sale any goods or foods during a special event when his/her license is not valid unless authorized by the sponsor of the special event as specified above.

FIREWORKS

SECTION 7.29 Sale of Fireworks.

No person may sell or possess with intent to sell fireworks, except:

- (a) To a person holding a permit under Section 7.31(c);
- (b) To a municipality; or
- (c) For a purpose specified under Section 7.34.

SECTION 7.30 Use of Fireworks.

- (a) **Permit Required.** No person may possess or use fireworks without a permit issued by the Village Clerk. No person may use fireworks or a device listed under Section 7.01(ee) while attending a fireworks display for which a permit has been issued to a person listed under section (c) 1-5.
- (b) **Permit Exceptions.** Section (a) above does not apply to:
 - 1. The Village, except that Village fire officials shall be notified of the proposed use of fireworks at least two (2) days in advance.
 - 2. The possession or use of explosives in accordance with rules or general orders of the Wisconsin Department Workforce Development.
 - 3. The disposal of hazardous substances in accordance with rules adopted by the Wisconsin Department of Natural Resources.
 - 4. The possession or use of explosive or combustible materials in any manufacturing process.
 - 5. The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.
 - 6. A possessor or manufacturer of explosives in possession of a license or permit under 18 U.S.C. 841 to 848 if the possession of the fireworks is authorized under the license or permit.
- (c) **Who May Obtain a Permit.** A permit under this subsection may be issued only to the following:

1. A public authority.
 2. A fair association.
 3. An amusement park.
 4. A park board.
 5. A civic organization.
 6. A group of resident or nonresident individuals.
 7. An agricultural producer for the protection of crops from predatory birds or animals.
- (d) **Required Information for Permit.** A permit under this Subsection shall specify all of the following:
1. The name and address of the permit holder.
 2. The date on and after which fireworks may be purchased.
 3. The kind and quantity of fireworks which may be purchased.
 4. The date and location of permitted use.
 5. Other special conditions prescribed by ordinance.
- (e) **Bond.** As part of issuing a permit, the Village Clerk shall require an indemnity bond or policy of liability insurance with at least one million dollars (\$1,000,000.00) of coverage for the payment of all claims that may arise by reason of injuries to person or property from the handling, use or discharge of fireworks under the permit. The bond or policy shall be taken in the name of the Village, and any person injured thereby may bring an action on the bond or policy in the person's own name to recover the damage the person has sustained, but the aggregate liability of the surety or insurance to all persons shall not exceed the amount of the bond or policy. The bond or policy, together with a copy of the permit, shall be filed in the office of the Village Clerk.
- (f) **Copy of Permit.** A copy of a permit under this Subsection shall be given to the Fire Chief at least two (2) days before the date of authorized use.
- (g) **Minors Prohibited.** A permit under this Subsection may not be issued to a minor.

SECTION 7.31 Storage and Handling.

- (a) **Fire Extinguishers Required.** No wholesaler, dealer or jobber may store or handle fireworks on the premises unless the premises are equipped with fire extinguishers approved by the Fire Chief.
- (b) **Smoking Prohibited.** No person may smoke where fireworks are stored or handled.
- (c) **Fire Chief to be Notified.** A person who stores or handles fireworks shall notify the Fire Chief of the location of the fireworks.
- (d) **Storage Distance.** No wholesaler, dealer or jobber may store fireworks within five hundred (500) feet of a dwelling.
- (e) **Restrictions on Storage.** No person may store fireworks within five hundred (500) feet of a public assemblage or place where gasoline or volatile liquid is sold in quantities exceeding one (1) gallon.

SECTION 7.32 Parental liability. A parent or legal guardian of a minor who consents to the use of fireworks by the minor is liable for damages caused by the minor's use of the fireworks.

SECTION 7.33 Crop Protection Signs. A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.

STREET USE PERMITS

SECTION 7.34 Purpose. The streets in possession of the Village are primarily for the use of the public in the ordinary way. However, under proper circumstances, the Village Board may grant a permit for street use, subject to reasonable municipal regulation and control. Therefore, the provisions of Sections 7.35 through 7.40 are enacted to regulate and control the use of streets pursuant to a Street Use Permit to the end that the health, safety and general welfare of the public and the good order of the Village can be protected and maintained.

SECTION 7.35 Application. A written application for a Street Use Permit by persons or groups desiring the same shall be made on a form provided by the Village Clerk and shall be filed with the Village Clerk. The application shall set forth the following information regarding the proposed street use:

- (a) The name, address and telephone number of the applicant or applicants.
- (b) If the proposed street use is to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorizing responsible heads of such organization.
- (c) The name, address and telephone number of the person or persons who will be responsible for conducting the proposed use of the street.
- (d) The date and duration of time for which the requested use of the street is proposed to occur.
- (e) An accurate description of that portion of the street proposed to be used.
- (f) The approximate number of persons for whom use of the proposed street area is requested.
- (g) The proposed use, described in detail, for which the Street Use Permit is requested.

SECTION 7.36 Representative at Meeting. The Village Board shall consider the application for a Street Use Permit at its first regularly scheduled meeting following the filing of the application. The person or a representative of the group making application for a Street Use Permit shall be present when the Village Board gives consideration to the granting of said Street Use Permit to provide any additional information which is reasonably necessary to make a fair determination as to whether a permit should be granted.

SECTION 7.37 Denial of Street Use Permit. An application for a Street Use Permit may be denied if:

- (a) The proposed street use is primarily for private or commercial gain.
- (b) The proposed Street use would violate any federal or state law or any Ordinance of the Village.
- (c) The proposed Street use will substantially hinder the movement of police, fire or emergency vehicles, constituting a risk to persons or property.
- (d) The application for a Street Use Permit does not contain the information required above.
- (e) The application requests a period for the use of the street in excess of five (5) days.
- (f) The proposed use could equally be held in a public park or other location.
- (g) For any other reason or reasons established by the Village Board if it concludes that the health, safety and general welfare of the public cannot adequately be protected and maintained if the permit is granted.

SECTION 7.38 Insurance. The applicant for a Street Use Permit shall indemnify, defend and hold the Village and its employees and agents harmless against all claims, liability, loss, damage or expense incurred by the Village on account of any injury to or death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the permit, the applicant shall furnish a Certificate of Comprehensive General Liability Insurance with the Village of Arlington. The applicant may be required to furnish a performance bond prior to being granted the permit.

SECTION 7.39 Termination of a Street Use Permit. A Street Use Permit for an event in progress may be terminated by the Village President or a law enforcement officer if the health, safety and welfare of the public appears to be endangered by activities generated as a result of the event or the event is in violation of any of the conditions of the permits or ordinances of the Village of Arlington. The Village President or a law enforcement officer has the authority to revoke a permit or terminate an event in progress if the event organizers fail to comply with any of the regulations in the street use policy or conditions stated in the permit.

NONMETALLIC MINING

SECTION 7.40 Statutory Provisions Adopted.

The Village of Arlington hereby adopts the rules of the Department of Natural Resources as required by Section 295.12(1) Stats., as if fully set forth herein. If any provisions of this section conflict with the rules of the Department of Natural Resources, the rules of the Department of Natural Resources shall control.

SECTION 7.41 Permit Required for Nonmetallic Mining.

- (a) **Permit Required.** No person or entity shall operate any nonmetallic mining site or operation within the Village unless he obtains a nonmetallic mining permit from the Village Board. The fee for such permit shall be established by resolution of the Village Board, plus any actual Village administrative expenses.
- (b) **Required Permit Information.** An application for a nonmetallic mining permit shall be submitted by the operator and shall include:
 - (1) An adequate description of the operation, including a legal description of the property;
 - (2) A plan of the site showing the proposed and existing roads and drives, and the sources, quantity and disposition of water to be used, if any;
 - (3) Estimated dates for completion of the extraction and commencement and completion dates for the reclamation;
 - (4) A reclamation plan and such other information as may be necessary to determine the nature of the operation and the effect on the surrounding area;
 - (5) Methods of screening from adjacent properties;
 - (6) Hours of operation;
 - (7) Dust and noise control;
 - (8) Maximum depth;
 - (9) Blasting procedures;
 - (10) Location and height of stockpiles; and
 - (11) Such other information the Village Board deems pertinent to the operation.
- (c) **Reclamation Plan.** The reclamation plan shall contain adequate provision that:
 - (1) All final slopes around the area be flatter than a three (3) to one (1) horizontal slope in a sand, gravel or borrow pit operation, or in a safe angle of repose in a quarrying operation;
 - (2) Excavations below the grade of the nearest abutting public street or highway shall be set back from the street or highway a distance not less than that required for buildings and structures in the same zoning district;
 - (3) Excavations made to a water-producing depth shall be not less than three (3) feet measured from the low water mark;
 - (4) All final slopes shall be covered with adequate topsoil and seeded to prevent erosion;
 - (5) The plan shall require that, after completion of the anticipated operation, the area shall be cleared of all debris and be left in a workmanlike condition, subject to the approval of the Village Board;
 - (6) There is a timetable for completion of various stages of reclamation of the nonmetallic mining site.
 - (7) Upon completion of the reclamation plan, the operator shall repair or replace all Village streets to the condition said street were in prior to the granting of the permit.
- (d) **Applications.** All applications for a permit hereunder shall be made in writing upon the form provided by the Village and distributed by the Village Clerk. All applications for permits hereunder shall be signed by the applicant and filed with the Village Clerk at least sixty (60) days prior to the permit period. The Village

Clerk shall immediately refer all applications for a permit hereunder to the Village Board for public hearing and approval. The operator shall receive written notice of the public hearing. The permit shall be for a period of time as stated in the application or as modified by the Village Board. Modification of the application or reclamation plan may be permitted or additional conditions may be required upon application. The Village shall consider the effect of the operation and the proposed reclamation upon existing and future conditions, including streets, neighboring land development, land use drainage, water supply, water pollution, air pollution, soil erosion, natural beauty and land value of the locality. The Village Board may approve, approve conditionally or reject the application and reclamation plan.

- (e) **Financial Assurance.** Before a permit and reclamation plan is approved by the Village Board, the operator shall submit an agreement and performance bond or cash escrow agreement to assure the following:
 - (1) The operator shall pay for the cost of all improvements required in the reclamation plan by the Village Board.
 - (2) Guaranteed completion of the required reclamation within a period determined by the Village Board.
 - (3) Payment by the operator for all costs incurred by the Village for review and inspection. This would include preparation and review of plans and specifications by the Village Engineer and Attorney, as well as other costs of a similar nature.
 - (4) The Village may elect to have stages of the reclamation plan performed under the terms of a cash escrow agreement.
 - (5) The required performance bond or cash escrow agreement shall be equal to one and one quarter (1¼) times the Village Engineer's estimated cost of the required reclamation requirements.
 - (6) If the required reclamation is not complete within the designated period, all amounts held under the escrow agreement or performance bond shall be turned over and delivered to the Village and applied to the cost of the required reclamation. Any balance remaining after such reclamation has been done shall be returned to the operator. The Village Board, at its option, may extend the bond period for additional periods.
- (f) **Fences.** Upon granting the permit, nonmetallic mining sites abutting areas zoned residential shall be enclosed by a security fence of not less than four (4) feet in height. Fence gates shall be locked or secured when the site is unattended so as to prevent uncontrolled access by children to the site.
- (g) **Inspection.** An authorized agent of the Village may enter the premises of a nonmetallic mining operation in the performance of his or her official duties by permission of the property owner or operator or pursuant to a special inspection warrant issued under Sec. 66.0119, Wis. Stats., in order to inspect those premises and to ascertain compliance with this Section.
- (h) **Prohibitions and Orders.** Nonmetallic mining operations within the Village are prohibited if the nonmetallic mining site cannot be reclaimed in compliance with the standards of this Section or if other requirements of this Section are not met.

SECTION 7.42 Exempt Activities.

The provisions of this section shall not apply to the following activities:

- (a) Excavations or grading by a person solely for domestic use at his or her residence.
- (b) Excavations or grading conducted for highway construction purposes within the highway right-of-way.
- (c) Grading conducted for farming, preparing a construction site or restoring land following a flood or natural disaster.
- (d) Excavations for building construction purposes.
- (e) Any mining operation, the reclamation of which is required in a permit obtained under Chapter 293, Wis. Stats.
- (f) Any activities conducted at a solid or hazardous waste disposal site required to prepare, operate or close a solid waste disposal facility under Chapter 289, or a hazardous waste disposal facility under Chapter 291, Wis. Stats., but a nonmetallic mining reclamation ordinance may apply to activities related to solid or hazardous waste disposal which are conducted at a nonmetallic site separate from the solid or hazardous waste disposal facility such as activities to obtain nonmetallic minerals to be used for lining, capping, covering or constructing berms, dikes or roads.

SECTION 7.43 Permit Revocation.

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

SECTION 7.44 Blasting and/or Rock Crushing.

- (a) **Operation.** No person within the Village shall operate a rock crusher or perform blasting in such a manner so that any dust, dirt or vibration from such operation shall, in any way, damage or injure any person or property within the Village. All blasting within the Village shall be performed according to the requirements of Comm. 7 and 8, Wis. Adm. Code, and all subsequent amendments thereto.
- (b) **Permit.**
 - (1) **Permit Required.** No person within the Village shall operate a rock crusher or perform blasting who does not possess a proper permit from the Village.
 - (2) **Applications.** All applications for permits hereunder shall be made in writing upon the form provided by the Village and distributed by the Village Clerk. All applications for permits hereunder shall be signed by the applicant and filed with the Village Clerk at least sixty (60) days prior to the licensing period. The Village Clerk shall immediately refer all applications for permits hereunder to the Village Engineer. The Village Clerk shall issue a permit hereunder only after first receiving the recommendation of

the Village Engineer, the duly executed certified check for the permit fee as hereinafter provided and the submittal of the Plan of Operation, if required, as approved by the Village Board.

- (3) **Certified Check.** Each application for a permit hereunder shall be accompanied by a certified check in the sum of the required permit fee as hereinafter provided, or a renewal thereof, the same to be payable to the Village.
- (4) **Plan of Operation.** Each application to permit a rock crusher hereunder or renewal thereof shall be accompanied by a Plan of Operation which shall include: methods of screening from adjacent properties, hours of operation, hours of blasting and operation of rock crusher, dust and noise control, blasting procedures, location and height of stock piles, whether a rock crusher will be needed and how often, water supply, drainage course, maximum depth, legal description of property in question and other information the Village Engineer deems pertinent to the proposed operation. Such Plan of Operation shall be approved by the Village Engineer.
- (5) **Insurance.** Each application for a blasting permit shall be accompanied by a Certificate of Insurance identifying the Village of Arlington as a party insured in the amount of five hundred thousand dollars (\$500,000.00) for damage to property, and five hundred thousand dollars (\$500,000.00) for death or injury to one (1) person and one million dollars (\$1,000,000.00) for death or injury to more than one (1) person caused by the blasting.
- (c) **Renewals.** All requests for renewals of permits hereunder shall be made at least sixty (60) days prior to the expiration date of the permit and must comply with all requirements of Subsection (b) above.
- (d) **Blasting Procedures and Controls.**
 - (1) **Energy Ratio.** The allowable vibration of any blast at the nearest occupied or used building off the subject premises shall not exceed an energy ratio of 0.5 or resultant particle velocity of 1.35" per second based on the following formula:

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

Energy ratio = $.274 V^2$ (V = resultant particles velocity expressed in inches per second)
 - (2) **Measurement of Blasts.** The operator of the quarry operation, when requested to do so by the Village Engineer, shall measure and submit data to substantiate compliance with the above formula and the operator of the quarry operation, when requested to do so by the Village Engineer, shall measure air blast. This verification shall be performed by a seismological engineering firm acceptable to the Village or by the Village Engineer. Instrumentation shall be by seismograph similar to VME Seismolog Model "B" and approved seismograph sound measuring

equipment or approved equivalents. All expenses for these tests shall be paid by the quarry operator.

- (3) **Blasting Log.** A log in duplicate shall be kept of each blast on forms similar to the one on file with the Village Clerk. The original copy of this blasting log shall be filed with the Village Clerk within forty-eight (48) hours after the blast, and a copy shall be kept on file at the quarry office.
 - (4) **Cover Material.** Operators of quarries for building and/or ornamental stone removal shall cover Primacord, other detonating cord or surface-laid blasting devices with at least one (1) foot of dirt or other suitable cover material.
- (e) **Permit Fee.** The permit fee for any permit issued pursuant to this Section shall be as set forth below. No permit fee shall be prorated. All permits issued hereunder shall expire on December 31 following the date of issue:
- (1) Quarries using blasting to supply buildings and/or ornamental stone: one hundred dollars (\$100.00) per blasting period.
 - (2) Gravel crushing operations using portable or fixed crushing equipment less than thirty (30) days per year: one hundred dollars (\$100.00) per year.
- (f) **Penalty.** Any person who shall violate any of the provisions of this Section shall be subject to a penalty as provided in Section 1.06 of this Code of Ordinances. However, upon conviction for the violation of any of the provisions of this Section by the holder of a permit issued hereunder, and in addition to the forfeiture provided, such permit shall thereupon be cancelled, revoked, rescinded and terminated.
- (g) **Enforcement.** Before renewal of any license issued under this Section is refused or any license is revoked, cancelled, rescinded or terminated, the licensee shall be given written notice of any charges or violations against him or the reasons proposed for nonrenewal or revocation and shall have an opportunity to be heard before the Village Board.

ADULT ENTERTAINMENT

SECTION 7.45 Purpose.

- (a) The Village Board of the Village of Arlington has explicit authority under Wis. Stats. § 125.10(1) to adopt additional regulations governing the sale of alcohol beverages which are in addition to those set forth in Wis. Stats. Chap. 125.
- (b) The First Amendment of the United States Constitution protects the rights of individuals to present adult entertainment which includes nude dancing, nude entertainment or material with themes or content of a sexual nature. The Village of Arlington may not, and does not desire to, interfere with the right of individuals to present or to attend adult entertainment. Individuals in the Village who do not choose to present or attend adult entertainment also have constitutionally protected rights to privacy and security in their property. The Village also has an interest in maintaining order and preventing negative effects from any business which will generate substantial customer volume, automobile traffic and impact

on the neighborhood's surrounding adult entertainment establishments. These concerns require the Village to exercise its police powers to ensure that the exercise of the First Amendment rights is not conducted to the detriment of the rights of others. In order to ensure that adult entertainment establishments may operate without adversely impacting the community, and therefore, to make it possible for individuals to exercise their First Amendment rights, the Village of Arlington finds that it is necessary and appropriate to adopt a licensing ordinance which allows the Village to ensure that adult entertainment establishments are created in a fashion which does not cause unacceptable impacts on the rights of others.

- (c) It is a lawful purpose of the Village Board to enact rules and regulations as are necessary for the preservation of health and to prevent the spread of AIDS and other communicable or sexually transmitted diseases in the Village of Arlington. It has been found by municipalities through the State of Wisconsin, as well as communities around the country, that sexually oriented adult entertainment establishments are predisposed to the creation of unsafe and unsanitary conditions; that operators and employees of such businesses tend to participate in sex-related offenses on the premises, creating substantial law enforcement problems, and that the operational characteristics of such businesses have a deleterious effect on surrounding areas, resulting in neighborhood blight and reduced property values, especially when such businesses are concentrated in one area. Many of such establishments install movie viewing booths with doors in which patrons view videotapes, movies, films and other forms of entertainment characterized by their emphasis on depicting, describing or relating to specified sexual activities or specified anatomical areas, and that such booths have been and are being used by patrons to engage in sexual acts resulting in unsanitary, unhealthy and unsafe conditions in said booths and establishments. Sections 7.46 through 7.58 are intended to establish standards in order to prevent the spread of AIDS and other communicable or sexually transmitted diseases, and to eliminate the deleterious effects described above in the Village of Arlington.
- (d) The Village Board finds that there is an increasing likelihood of commercial exploitation of human sexuality by owners of premises holding "Class B" and Class "B" alcohol beverage licenses in the State of Wisconsin. Such exploitation takes place in the form of employing or permitting persons to perform or exhibit their nude or semi-nude bodies to other persons as an inducement to other persons to purchase alcohol beverages. The direct result of such exploitation is criminal activity, moral degradation and disturbance of the peace and good order of the community. In addition, this commercial exploitation of such nude and semi-nude acts is adverse to the public's interest in the quality of life, commercial activity and total community environment in the Village of Arlington.
- (e) It is the purpose of Sections 7.46 through 7.58 to regulate Adult Entertainment Establishments and Adult Oriented Establishments to promote the health, safety, morals, and the general welfare of the citizens of the Village of Arlington, to aid in the alleviation and prevention of the adverse and deleterious effects of criminal activity and disruption of the public peace associated with such establishments, and to establish reasonable and uniform regulations to prevent the serious health

hazards associated with unsafe and unsanitary conditions known to exist in those establishments and to alleviate the spread of sexually transmitted diseases and other contagious diseases in those establishments.

SECTION 7.46 License Required.

- (a) Unless a license has been applied for and granted under Section 7.51 below, it shall be unlawful for any owner or operator of a premises holding a Class “A,” “Class A,” Class “B,” “Class B,” Reserve “Class B” or “Class C” Alcohol Beverage license to permit any person to:
 - (1) Expose to public view on the licensed premises any specified anatomical area;
 - (2) Appear in a state of nudity;
 - (3) Employ any device which is intended to give the appearance of or simulate such specified anatomical areas; or
 - (4) Publicly display or perform any sexual conduct, sexual intercourse or specified sexual activities on the licensed premises.
- (b) Any person holding a license as described in paragraph (a) above who permits a violation of (a), above, shall be subject to revocation of all alcohol beverage licenses issued by the Village to the license holder.
- (c) No person shall open premises to the public offering live performances by persons appearing in a state displaying some portions of specified anatomical areas not covered by fully opaque coverings, regardless of whether such persons are paid for such performance, unless the person opening the premises has obtained a license from the Village Clerk pursuant to this Section.
- (d) Unless a license has been applied for and granted under Section 7.51 below, no Adult Oriented Establishment shall be operated or maintained within the Village.
- (e) The licensing requirements of Section 7.49 through 7.51 shall not apply to live, theatrical, musical or dance performances occurring or conducted at a theatre, playhouse, community center, civic center, or performing arts center where the predominant business attraction is not the offering to patrons of entertainment which is intended to provide sexual stimulation or sexual gratification to such customer and where the establishment is not distinguished by the emphasis on or advertising or promotion of employees engaging in nude erotic dancing. This exception shall only apply to establishments whose receipts from food and beverage sales do not exceed fifteen percent (15%) of gross receipts.

SECTION 7.47 License Application, Review and Issuance.

- (a) **Application.** Applications for an annual Adult Entertainment Establishment or Adult Oriented Establishment license shall be made to the Village Clerk and contain all the information as set forth below. The Village Clerk shall notify the Columbia County Sheriff’s Department, the Chief of the Fire Department that has jurisdiction over the Village, and Village Building Inspector of the license application, publish a Class II notice of such application and have the license application submitted to the Village Board within thirty (30) days of application.

Investigating officials shall submit written reports and recommendations to the Village Board prior to the Village Board's review of the application. At the public hearing, the Village Board may take any testimony regarding the granting or denial of such license.

- (b) Any person, partnership, Limited Liability Company, corporation or other entity desiring to secure a license shall make application to the Village Clerk. The application shall be filed in triplicate with and dated by the Village Clerk.
- (c) The application for a license shall be upon a form provided by the Village Clerk. An applicant for a license, which shall include all partners or limited partners of a partnership applicant, all officers or directors of a corporate applicant, all members of any Limited Liability Company applicant, and any other person who is interested directly in the ownership or operation of the business, shall furnish the following information under oath:
 - (1) Name, including all aliases, addresses and dates of birth of the applicant(s);
 - (2) Written proof that each individual is at least eighteen (18) years of age;
 - (3) All residential addresses of the applicant(s) for the past ten (10) years;
 - (4) The business, occupation, or employment of the applicant(s) for ten (10) years immediately preceding the date of application;
 - (5) The exact nature of the activities to be conducted at the adult entertainment or adult oriented establishment;
 - (6) Whether the applicant(s) previously operated in this or any other State, County or municipality under an adult entertainment or adult oriented establishment license or similar business license; whether the applicant has ever had such a license revoked or suspended, the reason therefore, and the business entity or trade name under which the applicant(s) operated that was subject to the suspension or revocation;
 - (7) All criminal convictions, whether federal or State, or municipal Ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except traffic offenses;
 - (8) Fingerprints and two (2) portrait photographs of at least two (2) inches by two (2) inches of the applicant(s);
 - (9) The address of the adult establishment or adult oriented establishment to be operated by the applicant;
 - (10) If the applicant is a partnership, Limited Liability Company, corporation or entity, the application shall specify the name of the entity, the date and State of incorporation or organization, and the name and address of the registered agent of the entity.
- (d) Failure or refusal of the applicant to provide any information for the investigation of the application, or the applicant's refusal or failure to appear at any reasonable time and place for examination under oath regarding said application, or refusal to submit to or cooperate with any investigation required by this Section, shall constitute an admission by the applicant of ineligibility for such license and shall be grounds for denial thereof.

- (e) The Village Board shall request additional information, approve, modify, or reject the application within sixty (60) days of the application; the reasons for the action taken shall be specified in the written findings of fact of the Village Board.
- (f) Whenever an initial application is denied, the Village Clerk shall, within fourteen (14) days of the denial, advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held before the Village Board at its next regularly scheduled meeting.
- (g) If license issuance is approved by a majority of the Village Board, an initial applicant shall be granted a probationary license by the Village Clerk. An annual license shall be granted if, upon the expiration of the six (6) month probationary period, no violations occur and the applicant corrects any deficiencies or problems that the applicant is directed to correct.
- (h) The license granted under this Section shall expire on June 30th of each year and each license shall be subject to revocation as hereinafter provided.
- (i) The Village Clerk shall be responsible for drafting and issuing all licenses under this Section. All such licenses shall specify the nature of the holder and the license and the date for which it is applicable, as well as any conditions that may be imposed by the Village. All such licenses shall be open to public inspection and posted in public view on the premises for which issued.
- (j) All such license applications shall be accompanied by a fee as specified on the current Village of Arlington Fee Schedule. If for any reason the license is denied, one-half (1/2) of the license fee shall be returned to the applicant. If the license is granted, the entire fee will be kept by the Village.
- (k) No more than One (1) license for an Adult Entertainment Establishment and One (1) license for an Adult Oriented Establishment shall be issued by the Village at any time.
- (l) No license, or any interest in a license, may be transferred to any person, partnership, Limited Liability Company, Corporation or other entity.

SECTION 7.48 Standards for Adult Entertainment Establishment Licenses.

To receive a license to operate an Adult Entertainment Establishment, the applicant and the proposed premises of the Adult Entertainment Establishment must meet the following standards:

- (a) **Standards Related to the Applicant.** The applicant, in the case of a sole proprietorship, all partners in the case of a partnership, and all shareholders in the case of a corporation, must meet be at least eighteen (18) years of age.
- (b) **Standards Related to the Premises.** The applicant must demonstrate that the property and the building can meet the following physical standards:
 - (1) The property shall have at least one parking stall for every two patrons it is capable of seating at its maximum safe fire limit.
 - (2) The building shall have a determined safe fire limit for occupancy calculated by the Fire Department based upon the square footage and physical characteristics of the building. The occupancy limit shall be

communicated to patrons and employees by signs posted at the entrance and in the facility.

- (3) No area of the building may be made available for customers, patrons for the private viewing of any adult entertainment.
- (4) All portions of the building except rest rooms and areas which are off limits to patrons shall be accessible to and from aisles and public areas of the adult entertainment tavern and shall be unobstructed by any door, lock or other control type devices.
- (5) The lighting level of each booth, room or cubicle shall be a minimum of (10) foot candles at all times as measured from the floor.
- (6) There shall be a separate entrance for employees and entertainers which shall be locked to prevent unauthorized access.
- (7) There shall be a video monitoring system by which the operator can continuously monitor activities outside the building but on the property and any parking areas.
- (8) The establishment shall not have flashing lights, neon signs other than signs provided by manufacturers of alcoholic beverages, or decorative lighting other than illumination of parking lots, walk ways and entrances.
- (9) The interior of the establishment shall be not be visible from the exterior, including at times when entry doors are open.
- (10) The establishment shall place waste receptacles near the entrances to the tavern to discourage carrying any litter out of the building.
- (11) The signage for the establishment may not include any depictions of nudity, and may refer to the premises only as an "adult entertainment establishment" or "gentleman's club."
- (12) The establishment shall be sound-insulated, and sound levels controlled to the levels specified in this ordinance.
- (13) The level of sound audible at the property line of the establishment may not exceed seventy (70) decibels from 12:00 noon to 10 p.m. or sixty (60) decibels from 10:00 p.m. to 12:00 noon.

SECTION 7.49 Regulations.

Any Adult Entertainment Establishment license holder shall comply with the following regulations:

- (a) No dancing shall be permitted by any performers under the auspices of the management, whether paid or not, within six (6) feet from any location from which patrons are directly served, while so entertaining the patrons.
- (b) No dancer, performer, or any individual, who is performing, singing, or dancing, shall have either direct or indirect physical contact with any patron.
- (c) While dancing is in progress, the establishment shall be adequately illuminated so as to permit safe ingress and egress from the premises.
- (d) Good order shall be maintained at all times. Without limitation due to enumeration, a lack of "good order" for purposes of this definition shall be deemed to include persistent loud noises to the annoyance or detriment of

- surrounding property owners, patrons urinating in public, profane language and/or fighting.
- (e) The premises shall close and all customers shall vacate the premises between 12:00 midnight and 10:00 a.m. Monday through Saturday, and 12:00 midnight and noon on Sunday.
 - (f) The license holder shall comply at all times with building capacity limits as set by the Fire Department and/or Building Code.
 - (g) The license holder shall comply with all applicable State Statutes and regulations and all County and Village Ordinances.
 - (h) The management, license holder and employees shall obey all reasonable orders or directions of any law enforcement officer.
 - (i) The performance of any dance by performers under the auspices of the management shall be given only on a raised portion of the floor separated by a raising or other device from the patrons so as to deter patrons from participating in the dance.
 - (j) The license holder shall not permit any person to publicly perform specified sexual activities on the licensed premises.
 - (k) The license holder shall not permit any person to touch any performer's specified anatomical areas during a public performance.
 - (l) The use of simulated sexual organs during dances or performances is prohibited.
 - (m) No license holder shall permit any amateur dancing, entertainment, or performances on the license holder's premises in violation of this Subsection or any applicable State or Federal laws.
 - (o) No patron may engage in any type of sexual activity, cause any bodily discharge or litter while in the establishment or its parking areas.
 - (p) The establishment may not sell condoms or sexual aids, either directly or through vending machines.
 - (q) Patrons may not be in a motor vehicle which is located on the premises of the establishment for more than one minute.
 - (r) Patrons may not be in a motor vehicle which is located on the premises of the establishment with an employee of the establishment or an entertainer who has performed or will perform at the establishment.
 - (s) Patrons of the establishment may not be allowed to congregate at or near the separate entrance for employees or entertainers.
 - (t) Patrons may not remain on the premises of the building for more than three minutes after exiting the building.
 - (u) No license holder shall allow any person under the age of eighteen (18) to enter an establishment.
 - (v) No license holder shall allow any patron, or any other person, to bring alcohol beverages, as that term is used in Chapter 125 of the Wisconsin Statutes, onto a licensed premises.

SECTION 7.50 Standards for Issuances of Adult Oriented Entertainment License.

- (a) For an individual to receive a license to operate an Adult Oriented Establishment, the applicant must meet the following standards:
 - (1) The applicant shall be at least eighteen (18) years of age;
 - (2) Subject to Wis. Stats. Chap. 111, the applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution or other crime of a sexual nature in any jurisdiction; and
 - (3) The applicant shall not have been found to have previously violated Sections 7.46 through 7.58 of this Chapter.
- (b) If the applicant is a corporation:
 - (1) All officers, directors, and others required to be named under Section 7.48(c) above shall be at least eighteen (18) years of age;
 - (2) Subject to Wis. Stats. Chap. 111, no officer, director, or other person required to be named under Section 7.48(c) shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution or other crime of a sexual nature in any jurisdiction; and
 - (3) No officer, director or other person required to be named under Section 7.48(c) shall have been found to have previously violated Section 7.46 through 7.58 of this Chapter.
- (c) If the applicant is a partnership, joint venture, Limited Liability Company or any other type of organization:
 - (1) All persons having a financial interest in the partnership, joint venture, Limited Liability Company or other type of organization shall be at least eighteen (18) years of age;
 - (2) Subject to Wis. Stats. Chap. 111, no person having a financial interest in the partnership, joint venture, Limited Liability Company or other type of organization shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution or other crime of a sexual nature in any jurisdiction; and
 - (3) No person having a financial interest in the partnership, joint venture, Limited Liability Company or other type of organization shall have been found to have violated any provision of this Ordinance.
- (d) No license shall be issued unless the Columbia County Sheriff's Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the Village Clerk no later than fourteen (14) days after the application.
- (e) The Building Inspector, Chief of the Fire Department having jurisdiction over the Village, and the Columbia County Sheriff's Department shall inspect the premises proposed to be licensed to verify compliance with their respective Codes, and shall report compliance findings to the Village Clerk within fourteen (14) days of the date of application.

- (f) No license shall be issued unless the applicant provides proof of one (1) of the following:
 - (1) Ownership of a properly zoned building or parcel of real property upon which a building can be constructed. Proper zoning includes permissible nonconforming use status.
 - (2) A lease on a building which is properly zoned to house an adult oriented establishment. Proper zoning includes permissible nonconforming use status.
 - (3) An option to purchase property which is properly zoned for the adult oriented establishment.
 - (4) An option to lease property which is properly zoned for the adult oriented establishment. Proper zoning includes permissible nonconforming use status.

SECTION 7.51 Physical Layouts of Adult Oriented Establishments.

- (a) Any Adult Oriented Establishment having available for customers, patrons or members any booth, room, or cubicle for the private viewing of any motion picture, videotape or compact disc in which a significant or substantial portion of the material presented is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas must comply with the following requirements:
- (b) Each booth, room, or cubicle shall be totally accessible to and from aisles and public areas of the adult oriented establishment and shall be unobstructed by any door, lock or other control-type devices.
- (c) Every booth, room or cubicle shall meet the following construction requirements:
 - (1) Each booth, room or cubicle shall be separated from adjacent booths, rooms, cubicles and any non-public areas by a wall.
 - (2) Have at least one (1) side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying same.
 - (3) All walls shall be solid and without any openings, extended from the floor to a height of not less than eight (8) feet, and be light colored, non-absorbent, smooth textured and easily cleanable.
 - (4) The floor must be light colored, non-absorbent, smooth textured and easily cleanable.
 - (5) The lighting level of each booth, room or cubicle, when not in use, shall be a minimum of ten (10) foot candles at all times, as measured from the floor.
 - (6) Only one (1) individual shall occupy a booth, room or cubicle at any time. No occupant of same shall engage in any type of specified sexual activity, cause any bodily discharge or litter while in the booth. No person shall alter, damage or deface any portion of any such booth, room or cubicle in such a manner that it no longer complies with the provisions of this Section.

SECTION 7.52 Location.

- (a) No license under this Ordinance shall be granted to any establishment within one thousand (1,000) feet of any area zoned for residential, church, school, nursing home, public park, or day care center. No establishment licensed under this Section shall be located within five hundred (500) feet of any business holding an alcohol beverage license.
- (b) For purposes of this Section, distances are to be measured in a straight line, without regard to intervening structures or objects, from the property line of the establishment to the nearest property line of another establishment, school, place of worship, residential district or business holding an alcohol beverage license.

SECTION 7.53 Suspension, Revocation or Nonrenewal of Licenses.

- (a) In general any license granted herein may be revoked, suspended, or not renewed by the Village Board as follows:
 - (1) If the applicant has made or recorded any statement required by the application process knowing it to be false or fraudulent;
 - (2) For the violation of any provision of Sections 7.46 through 7.58, except for establishment license matters involving a violation of Building Codes, in such case the license shall be revoked after the second conviction thereof in any license year;
 - (3) After one (1) conviction of any establishment employee of an offense under Wis. Stats. Chapter 944, or of an offense against the person or property of a patron or customer of the establishment or of an offense involving substances in Subsection II of Wis. Stats. Chapter 961 where there is shown the participation or knowledge of any other establishment employee or of any individual within the business structure of the applicant.
 - (4) If the licensee, operator or employer becomes ineligible to obtain a license.
 - (5) If an operator employs an employee who does not have a permit or provides space on the premises, whether by lease or otherwise, to an independent contractor who performs or works as an entertainer without being registered with the Village Clerk.
 - (6) If any cost or fee required to be paid by this Section is not paid.
 - (7) If any intoxicating liquor or fermented malt beverage, narcotic or controlled substance is served or consumed on the premises of the Adult Oriented Establishment.
 - (8) If any operator, employee or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any material depicting specified sexual activities or specified anatomical areas.
- (b) No license shall be revoked, suspended, or not renewed by the Village Board except upon due notice and hearing to determine whether grounds for such action exist. Such hearing shall be held before the Village Board. Notice of such hearing shall be in writing and shall state the grounds of the complaint against

the licensee. The notice shall be served upon the licensee at least fifteen (15) days prior to the date of the hearing and shall state the time and place thereof.

- (c) The licensee shall be entitled to be heard, to be represented by counsel, to cross-examine opposing witnesses, to present witnesses on the licensee's own behalf under subpoena by the Village Board if such is required, and the hearing may be stenographically recorded at the licensee's option and expense. At the conclusion of such hearing, the Village Board shall prepare findings of fact and conclusions as to what, if any, action the Village Board will take with respect to the license. The Board shall provide the complainant and licensee with a copy of the report.

SECTION 7.54 Renewal of License.

- (a) Every license issued pursuant to Section 7.48 shall terminate on June 30 each year, unless sooner revoked, and must be renewed before operation is allowed following June 30 of any year. Any operator desiring to renew a license shall make application to the Village Clerk. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the Village Clerk. A copy of the application for renewal shall be distributed by the Village Clerk to the Columbia County Sheriff's Department, Building Inspector, Chief of the Fire District that has jurisdiction over the Village and the applicant. The application for renewal shall be upon a form provided by the Village Clerk and shall contain such information and data, given under oath or affirmation, as is required for an application for a new license.
- (b) A license renewal fee as specified on the current Village of Arlington Fee Schedule shall be submitted with the application for renewal.
- (c) If the Columbia County Sheriff's Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the Village Clerk.

SECTION 7.55 Responsibilities of Operators.

- (a) An operator, licensed under Section 7.48, shall maintain a register of all employees, showing the name and aliases used by the employee, home address, birth date, sex, telephone numbers, Social Security Number, and date of employment and termination. The above information on each employee shall be maintained in the register on the premises of a period of three (3) years following termination.
- (b) The operator shall make the register of employees available immediately for inspection by law enforcement officers upon demand of a member of a law enforcement agency at all reasonable times.
- (c) Every act or omission by an employee constituting a violation of the provisions of this Section 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.

- (d) Any act or omission of any employee constituting a violation of the provisions of this Section shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended, or renewed.
- (e) No employee of an Adult Entertainment Establishment or an Adult Oriented Establishment shall allow any minor to loiter around or to frequent an Adult Entertainment Establishment or an Adult Oriented Establishment or to allow any minor to view sexually-explicit live adult entertainment or materials containing depictions of specified sexual activities or specified anatomical areas.
- (f) The operator shall maintain the premises in a clean and sanitary manner at all times.
- (g) The operator shall ensure compliance of the establishment and its patrons with the provisions of Sections 7.46 through 7.58.
- (h) The operator shall ensure there is conspicuously posted inside each booth, room or cubicle an un mutilated and undefaced sign or poster approved by the Village Board which contains information regarding sexually transmitted diseases and the telephone numbers from which additional information can be sought.
- (i) The operator shall ensure there is conspicuously displayed at a place near the main entrance of the establishment, or portion thereof, any information, brochures, or pamphlets approved by the Village pertaining to sexually transmitted diseases.
- (j) The operator shall ensure there are posted regulations concerning booth occupancy on signs, with lettering at least one (1) inch high, that are placed in conspicuous areas of the establishment and in each of the booths, rooms or cubicles.

SECTION 7.56 Registration of Operators and Employees.

- (a) All operators and employees working in any Adult Entertainment Establishment or Adult Oriented Establishment shall, prior to beginning employment or contracted duties, register with the Village Clerk. Such registration shall include the following: Name, address, birth date, any aliases used, telephone numbers, date of employment and name of employer. As part of the registration process, each operator or employee shall execute an Authorization in which the operator or employee consents to the Village Clerk completing a background check of the operator or employee. The background check may consist of a review of the CIB, NCIC and INTERPOL databases.
- (b) Upon registration, the Village will provide to each registered employee an identification card containing the employee's photograph identifying the employee as such, which shall be kept available for production upon request of all inspecting officers while on duty at such Adult Entertainment Establishment or Adult Oriented Establishment.
- (c) All registrations hereunder are valid for a period of one (1) year.

- (d) A registration fee as set forth on the current Village Fee Schedule shall be paid per registration, which shall be paid to the Village to cover costs of the identification card and the background check.
- (e) All private schools and public schools, as defined in Wis. Stats. Chapter 115, located within the Village of Arlington are exempt from obtaining a license hereunder when instructing pupils in sex education as part of its curriculum.

SECTION 7.57 Penalty.

In addition to any other actions allowed by law or taken by the Village Board, including the action of license revocation or nonrenewal, anyone who violates any of the provisions of this Section shall be subject to any civil penalties or other penalties available by law.

GENERAL PROVISIONS

SECTION 7.58 Licensees Required to Pay Local Taxes; Assessments and Claims.

- (a) **Nonpayment of Taxes or Forfeitures.** The Village shall not issue or renew any license to transact any business within the Village of Arlington:
 - (1) For any purposes for which taxes, assessments or other claims of the Village are delinquent and unpaid.
 - (2) For any person who is delinquent in payment:
 - a. Of any taxes, assessments or other claims owed the Village; or
 - b. Of any forfeiture resulting from a violation of any Village Ordinance.
- (b) **Applicability.** This Section shall apply to licenses issued pursuant to the provisions of this Chapter, except the provisions of Section 7.02 through 7.20.
- (c) **Denial of Renewal.** An application for renewal of a license subject to this Chapter shall be denied pursuant to the provisions of Subsection (a) only following notice and opportunity for hearing as provided by Subsection (d) below.
- (d) **Hearing.** Prior to any denial of an application for renewal of a license, including denials pursuant to Subsection (a), the applicant shall be given notice and opportunity for a hearing as hereinafter provided:
 - (1) With respect to licenses other than those described in Section (b) above, the Village Board or its assignee shall notify the applicant in writing of the Village's intention not to renew the license and shall provide the applicant with an opportunity for hearing. The notice shall state the reasons for the intended action and shall establish a date, not less than three (3) days nor more than ten (10) days after the date of the notice on which the applicant shall appear before the Village Board. If the applicant shall fail to appear before the Board on the date indicated on the notice, the Board shall deny the application for renewal. If the applicant appears before the Board on the date indicated in the notice and denies that the reasons for nonrenewal exist, the Village Board shall conduct a hearing with respect to the matter. At the hearing, both the Village and the applicant may produce

witnesses, cross examine witnesses and be represented by counsel. The applicant shall, upon request, be provided a written transcript of the hearing at the applicant's expense. If the Village Board determines the applicant shall not be entitled to renewal pursuant to subsection (a), the application for renewal shall be denied.

- (e) **Other Grounds for Hearing.** Where an individual or entity wishes to appeal a decision not to issue a license or permit under this Chapter on grounds other than those specified in subsection (a) above, the applicant may file a request in writing with the Village Clerk that the matter be referred to the Village Board. A public hearing shall be scheduled within fourteen (14) calendar days by the Village Board. All parties may be represented by counsel. The Board shall consider all relevant information and shall render a decision which shall be binding.

SECTION 7.59 Issuance of Licenses.

- (a) **Application.** Applications for licenses under this Chapter shall be made to the Village Clerk on a form furnished by the Village. Such application shall contain such information as may be required by the provisions of this Chapter or as may be otherwise required by the Village Board.
- (b) **Payment of License Fee.** License fees imposed under this Chapter shall accompany the license application. If a license is granted, the Village Clerk shall issue the applicant a receipt for his license fee.
- (c) **Refund of License Fee.** No fee paid shall be refunded unless the license is denied.
- (d) **Terms of Licenses.** All licenses issued hereunder shall expire on June 30, in the year of issuance unless issued for a shorter term, when they shall expire on midnight of the last effective day of the license, or unless otherwise provided by these Ordinances or State laws.
- (e) **Form of License.** All licenses issued hereunder shall show the date of issue, the activity licensed, and the term of the license, and shall be signed by the Village Clerk and be impressed with the Village Seal, if any.
- (f) **Record of Licenses.** The Village Clerk shall keep a record of all licenses issued.
- (g) **Display of Licenses.** All licenses hereunder shall be displayed upon the premises or vehicle for which issued, or if carried on the person shall be displayed to any officer of the Village upon request.
- (h) **Compliance With Ordinances Required.** It shall be a condition of holding a license under this Chapter that the Licensee comply with all Ordinances of the Village. Failure to do so shall be cause for revocation of the license.
- (i) **Transfer of Licenses.** All licenses issued hereunder shall be personal to whom issued and shall not be transferred except with the consent of the Village Board.
- (j) **Consent to Inspection.** An applicant for a license under this Chapter thereby consents to the entry of police or authorized representatives of the Village upon licensed premises at all reasonable hours for the purposes of inspection and search, and consents to removal from the premises and introduction into

evidence in prosecutions for violations of this Chapter all things found therein in violation of this Chapter or State law.