



VILLAGE OF MENOMONEE FALLS
NOTICE OF PUBLIC MEETING
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GENERAL GOVERNMENT COMMITTEE
Menomonee Falls Village Hall, Room 2245
W156N8480 Pilgrim Road, Menomonee Falls, WI
Monday, October 2, 2017, 6:00 p.m.

Note: Committee Chairpersons are asked to enter the date in which each item is to go before the Village Board (V.B.) when applicable.

1. Discussion with and direction to Village staff concerning a proposed ordinance amending or repealing various provisions of the Municipal Code to eliminate certain licenses and related fees and to create regulations related to special events.

Appearances: Representatives of Clerk Services, Police Department and Village Attorney's Office

V.B. Action _____ V.B. Report _____ Hold in Committee

Walz (Chairperson), Glasgow, Van Alstyne

THIS AGENDA IS SUBJECT TO REVISION

Members of other Village committees, boards, commissions and authorities may attend and participate at this meeting, but will not take official action unless the notice so provides.

No qualified individual with a disability shall, by reason of that disability, be excluded from participation in or be denied benefits of the services, programs, or activities of the Village of Menomonee Falls, or be subject to discrimination by the Village. If you are disabled and require special accommodation, please advise the Village Clerk's Office at (262) 532-4200 no later than 5 days before the scheduled meeting or activity.



General Government Committee

1.

Meeting Date: 10/02/2017

Topic: Possible Ordinance Creating Regulations for Special Events

From: Michael Morse, Village Attorney

Department: Legal

Presenter: Representatives of Clerk
Services, Police Department and
Village Attorney's Office

Information

Subject:

Discussion with and direction to Village staff concerning a proposed ordinance amending or repealing various provisions of the Municipal Code to eliminate certain licenses and related fees and to create regulations related to special events

Background Information:

See attached background memorandum from the Village Attorney.

Key Issues for Consideration:

Action By Committee or Village Board:

This item is on the General Government Committee's agenda for discussion with and direction to the Village Staff. There is no proposed final action by the Committee or the Board of Trustees at this meeting.

Attachments

Village Attorney's Memorandum

Appendix A: Proposed Special Event Regulations

Appendix B: Chapter 10 of the Municipal Code



VILLAGE OF MENOMONEE FALLS, WI
Office of the Village Attorney

Memorandum

TO: Mark Fitzgerald
Village Manager

FROM: Michael J. Morse
Village Attorney

DATE: September 27, 2017

CC: Board of Trustees Chief Ruzinski Arlyn R. Johnson
Janice Moyer Ast. Chief Waters Ast. Village Manager
Village Clerk Police Department

RE: **October 2, 2017 General Government Committee Agenda:** Discussion with and direction to Village staff concerning a proposed ordinance amending or repealing various provisions of the Municipal Code to eliminate certain licenses and related fees and to create regulations related to special events.

INTRODUCTION

This matter is on the General Government Committee's agenda for a discussion with and input from the Committee. It was placed on the agenda at the request of the Village Clerk; and concerns a proposed update of Village licensing procedures. If ultimately adopted by the Village Board, the proposed update would eliminate certain obsolete permits, regulations and related fees; and consolidate several other permits and licenses into a general set of regulations that would apply to "special events". Representatives of the Police Department, the Clerk's Office and my office will be at this meeting.

In addition to this this memorandum, the agenda packet for this matter contains two appendices. Appendix A is the current draft of the proposed special event regulations. If adopted by the Village Board, the regulations set out on Appendix A will become Article II of Chapter 10 of the Municipal Code. The proposed regulations are described in summarized in the next section of this memorandum.

Appendix B is a copy of the current Chapter 10. Chapter 10 regulates amusements and entertainments. It will be the chapter most significantly affected if the Board adopts the proposed regulations set out in Appendix A. I am providing it for background purposes.

The proposed special event regulations will replace current Village regulations for carnivals, circuses and street fairs. Regulation of these events will become part of the new special event license regulations set out in Appendix A. The proposed regulations will also replace the regulation of block parties currently contained in Chapter 106 of the Municipal Code.

After obtaining the Committee's input on the proposed regulations, my office anticipates bringing the matter back to the Committee on October 16 for a recommendation to the Village Board. At that meeting, I will be submitting an enacting ordinance which would contain the final version of the proposed special event regulations. The enacting ordinance will also make other revisions to the Municipal Code consistent with the new regulations. This will include repealing Article V of Chapter 10. Article V regulates dance hall permits, teenage clubs, public dances and tavern amusements. The Clerk's office believes these regulations are outdated and unused, and will be recommending they be repealed.

APPENDIX A: PROPOSED SPECIAL EVENT REGULATIONS.

1. **Section 10-21 [Purpose]** is set out on page 1 of Appendix A. It notes the legislative purpose behind the proposed regulations.
2. **Section 10-22 [Definitions]** is set out on pages 1-2 of Appendix A. It contains definitions that apply to the special event regulations. It defines a *special event* as a temporary gathering of people involved in at least one of six categories of events listed in the definition. The categories include several events currently regulated in various parts of the Municipal Code: block parties, parades, street fairs, street closures, carnivals, circuses, and theatrical performances or exhibits.
3. **Section 10-23 [Permit required; exemptions]** is set out on page 2 of Appendix A. Subsection (a) sets out the preliminary requirement to obtain a special event license. The Village Manager will be recommending that there be no fee for special event licenses.

Subsection (b) identifies activities that are exempt from the licensing requirements. It notes certain specific exempted activities:

- Funeral processions,
- Certain school-related activities,
- Events occurring on property owned or controlled by another governmental agency, and
- Theatrical performances at schools or churches.

Subsection (b) also exempts events that may be subject to a separate and specific agreement approved by the Village Board. This may include events that are large enough to warrant a more significant use of Village resources. Any agreement approved by the Village Board can establish fees or costs for Village-provided services.

4. **Section 10-24 [Requirements]** is set out on pages 3-4 of Appendix A. It imposes certain requirements on license applicants, and sets out the application review process.
5. **Section 10-25 [Regulations]** is set out on pages 4-5 of Appendix A. It contains additional regulations for special events. Some regulate parking, sanitation facilities, illumination and fire prevention and refuse removal. Others address the following activities:
 - Limitations on the duration of the event and hours of operation. The regulations require that the applicant specify the days upon which the event will occur. It also forbids special events between the hours of 10 PM and 6 AM.

- Estimated attendance. An applicant is required to specify an estimated maximum daily peak number of people reasonably expected to attend.
 - Security. Unless waived by the Village Manager, an applicant must submit a security plan for any special event that is open to the public, or includes the sale of merchandise or alcohol beverages. An applicant will work with the Police Department to create the security plan.
 - Notification of neighbors. If the special event will require closing or partially closing one or more streets, the applicant must provide reasonable advance notice to the property owners abutting the location of the special event at least ten (10) days in advance of the event. They are also asked to supply the Village with the names and addresses of the affected neighbors.
 - Barricades. The ordinance requires that barricades be used for street closures. They also may be required as part of a security plan. The applicant may only use barricades provided by the Village. This is to ensure that the barricades used for special events meet the standards set forth in the manual on uniform traffic control devices.
 - Music or amplified sound. The ordinance imposes regulations on sound levels. In addition, it also provides that there shall be no music or amplified sound between 10 PM and 7 AM.
6. **Section 10-26 [Insurance, indemnification and hold harmless]** is set out on page 6 of Appendix A. It imposes certain insurance requirements on parades or street fairs or an event where the Village Manager requires insurance. It specifies minimum insurance amounts, and requires an endorsement naming the Village as an additional insured. It requires that an event organizer hold the Village harmless and indemnify the Village for risks arising out of the event.
 7. **Section 10-27 [Application review and decision by the Village Manager]** is set out on pages 6-7 of Appendix A. It sets out the procedure and standards the Village Manager is to follow in making the decision whether to approve the issuance of a license, modify and approve the issuance of the license, approve issuance with conditions, or deny the application for a license. It requires that the Village Manager notify the applicant of his decision within five days of making it.
 8. **Section 10-28 [Special event cancellation or suspension]** is set out on page 7 of Appendix A. It authorizes the Village Manager to suspend or cancel an event under certain conditions.
 9. **Section 10-29 [Appeals]** is set out on page 8 of Appendix A. It sets out an appeal procedure to the Village Board for individuals who are aggrieved by a decision of the Village Manager relating to an application for a special event license.
 10. **Section 10-30 [Penalty]** is set out on page 8 of Appendix A. It provides for the imposition of forfeitures if a special event is held in violation of the new regulations.

Appendix A: Proposed Special Event Regulations

Article II. Special Events

Sec. 10-21. Purpose

The Village of Menomonee Falls recognizes special events organized by individuals, private organizations, and non-profits serve an important role in enhancing the village's quality of life and can provide benefits to the community as a whole.

The village will review applications for special event licenses for the purpose of assisting the applicant in complying with the applicable public safety requirements.

The purpose of this article is the regulation of special events for the safety, security, health and well-being of participants and the public, and the protection of village property.

Sec. 10-22. Definitions

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

Applicant means the organizer of a special event, who applies for a permit under this Section

Parade means any parade, march, ceremony, show, exhibition, pageant or procession of any kind, or any similar display, in or upon any street or other public property.

Private property means any property that does not fall within the definition of *Public Property* as defined in this section.

Public property means all of the following:

- (1) all rights of way identified by the Village of Menomonee Falls as such;
- (2) all public streets, sidewalks, parking lots, pedestrian paths, bicycle paths, and similar ways over which the public has a right to travel;
- (3) any village owned parks or properties;
- (4) any property under the jurisdiction of the Village of Menomonee Falls; and
- (5) any property owned by or under the jurisdiction of any other government entity.

Special event means a temporary gathering of people involving at least one of the items listed below. The village manager shall have the exclusive authority to determine whether an event meets the definition of "special event."

- (1) A public event on public property;

- (2) A public event on private property, unless controlled by a conditional use permit per Chapter 122 of this Code;
- (3) Neighborhood block party;
- (4) Parade, street fair;
- (5) Street closure;
- (6) Carnival, circus, theatrical performance, exhibit.

Sec. 10-23. Permit required; exemptions

(a) *Permit required.* No person or entity acting as an event organizer shall set up for, hold, or conduct a special event, within the municipal boundaries of the Village of Menomonee Falls without first obtaining a special event license. The village manager shall have the exclusive authority to determine whether or not a license is required for any particular event. Neither the village's review of any license application nor its subsequent issuance of a license shall be construed as acceptance by the village or its representatives of any liability or responsibility for any injury or damage relating to the special event. A special event license is temporary in nature, and does not vest any permanent rights.

(b) *Exemptions.* This article shall not apply to

- (1) Funeral processions;
- (2) Students going to and from school classes or participating in educational activities, provided that such conduct is under the immediate direction and supervision of the proper school authorities;
- (3) Events occurring on property owned or controlled by another governmental agency;
- (4) Theatrical performances at schools or churches and performed within the particular school's or church's own building;
- (5) Events that are subject to a separate and specific agreement, which is approved by the village board of trustees, to hold the event pursuant to the terms of the individual agreement. The agreement may modify the terms or requirements of this article and establish fees or costs for any village provided services under the agreement, provided the modification(s) meet the intent of this article.

Sec. 10-24. License Requirements

- (a) Completed applications for a special event license shall be filed with the village clerk. Applications shall be on a form provided by the village and signed by the person or an authorized representative of the entity organizing the special event. The name(s), residence(s), and age(s) of the applicant(s) must be stated on the application. The application must be filed no later than 45 days prior to the event or first day of the event unless a shorter period of time is approved by the village manager.
- (b) Special events must comply with all applicable village ordinances and requirements, including but not limited to traffic rules, street closures, park rules, state health laws, fire codes, building codes, zoning, food service, and fermented malt beverage and liquor license requirements, unless otherwise waived herein.
- (c) The applicant shall identify a designated person who can be contacted at any time by any village representative, such as police, fire or public works, regarding the event.
- (d) The Clerk shall refer the application for review and comment by the following village departments: clerk services, police, fire, public works, and parks; and may refer the application to additional village staff as the village manager believes is warranted by the specific circumstances of the event. Village departments shall notify the village manager of their review and comments on the application contingent upon changes or modifications to the original request, or take no position on the application.
- (e) The approval of any special event license application shall also be conditioned upon the approval of all other necessary permits, licenses, and inspections when any one or more of the following conditions apply:
 - (1) A temporary extension of an existing licensed premises (fermented malt beverages and/or intoxicating liquor license);
 - (2) Temporary Class “B” license for the sale of fermented malt beverages;
 - (3) Temporary “Class B” license for the sale of wine;
 - (4) Tents erected for use at the special event;
 - (5) Food peddler license;
 - (6) Park rental permit;
 - (7) Fireworks displays; and

(8) Any other permit or license required by ordinance of the Village of Menomonee Falls.

(f) The applicant shall use all reasonable efforts to ensure that participants and attendees comply with all village ordinances, traffic rules, park rules, state health laws, fire codes, and other licensing requirements, unless otherwise waived herein.

Sec. 10-25. Regulations

Applicants shall also comply with and applications shall address the regulations set out in this section. Supporting material, if required, must be attached to the application. Additional information may be required upon review by village departments.

(1) *Duration of event and hours of operation.*

- a. Special events will not be open between the hours of 10 p.m. and 6 a.m.
- b. The application shall specify the days upon which the event shall occur or, in the case of a seasonal or recurring events, the days within the calendar year upon which the event will occur.
- c. The application shall also specify the hours during which pre-event set up and post event takedown operations will occur, and no such pre-event and post-event activities may be conducted other than as specified on the application and subsequently approved.

(2) *Maximum attendance.* a special event application shall specify the maximum daily peak number of people reasonably expected to attend.

(3) *Parking.*

- a. The applicant shall take all reasonable precautions to minimize adverse effects on the neighborhoods directly affected by parking and traffic related to the special event.
- b. The application shall include a parking plan that identifies areas the applicant has reserved for off street parking, or which the applicant reasonably expects to be utilized by event participants and attendees for off-street parking.

(4) *Toilets and sanitation facilities.* The applicant shall provide at the applicant's cost sufficient toilet and sanitation facilities for the estimated maximum daily peak number of expected attendees during the special event.

- (5) *Security*. Unless waived by the village manager, the applicant shall submit a security plan for the special event if the special event is open to the public, or includes the sale of merchandise or alcohol beverages. The applicant shall work with the Police Department to create a security plan if one is required.
- (6) *Illumination*. If the special event is to continue during hours of darkness, the applicant shall comply with all applicable village regulations related to illumination.
- (7) *Fire Prevention and Detection*. All fire protection applicable to the special event activities on the premises, shall be provided by the applicant as required by the Fire Prevention and Protection Code, including alarms, extinguishing devices, fire lanes, and fire escapes, if warranted by the type of special event.
- (8) *Refuse removal*. The applicant shall be responsible for all litter, refuse, and recycling generated by the special event; and shall take all reasonable efforts during the event for removing all litter, refuse, and recycling created during the event within 12 hours after the conclusion of the event, or in the case of an event over several days, each day at the end of that day's event.
- (9) *Event(s) on private property*. If the event is to take place on private property the applicant must obtain the permission of the property owner to use the property for the special event. The applicant must submit with the application the written evidence of the permission of the property owner to use the property for the special event.
- (10) *Notification to Neighbors*. If the special event will require closing or partially closing one or more streets, the applicant shall provide reasonable advance notice to property owners abutting the location of the special event at least (10) ten days in advance of the event. The names and addresses of all affected neighbors, businesses, or schools must be submitted with the application. The applicant shall include the date, time, and location/route to all parties that abut the location of the special event and any other areas required during review by village departments.
- (11) *Barricades*. Barricades shall be required for street closures; and may be required by a security plan. Applicant shall use only barricades provided by the village. All barricades used for a special event shall meet standards set forth in the Manual on Uniform Traffic Control Devices.
- (12) *Music or amplified sound*. Sound levels generated by the special event shall not exceed a level which unreasonably disturbs the peace and quiet of residents in the vicinity of the special event, taking all circumstances into consideration. In addition, there shall be no music or amplified sound between 10 P.M and 7 A.M.

Sec. 10-26. Insurance, indemnification and hold harmless

- (a) *Insurance.* The applicant shall file with the village clerk a certificate of insurance for a parade or street fair or for an event where the village manager requires insurance. The applicant shall obtain, at the applicant's sole expense, a policy of public liability insurance from an insurer licensed to issue policies in the State of Wisconsin, with limits of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate, with an endorsement naming the Village of Menomonee Falls as an additional insured and loss payee. When insurance is deemed necessary, a special event license will not be issued until a certificate of insurance is received by the village clerk.
- (b) *Indemnification and hold harmless.* Insofar as permitted by law and as a condition of receiving a permit under this article, an organizer of a Special Event shall be required to sign an agreement in a form acceptable to the Village in which the organizer agrees to indemnify and to hold harmless the Village of Menomonee Falls and its departments, employees and agents from any liability to any person resulting from any damage or injury to property or any person which occurs in connection with the permitted event proximately caused by any actions or inactions of the event organizer, the organizer's officers, employees, or agents, or any person under the control of the event organizer.

Sec. 10-27. Application review and decision by village manager

- (a) The village manager shall review the comments and recommendations submitted by village staff and shall approve, modify and approve, approve with conditions or deny the application. The village manager shall notify the applicant of this decision within 5 business days of making the decision.
- (b) *Standards.* To the extent permitted by law, the village manager may base the decision regarding an application for a special event permit on one or more of the following:
 - (1) A prior experience of the applicant in holding any event, or in holding the special event which is the subject of the application, will be considered and may impact the issuance of special event permits. The village manager may deny an application for a permit if the applicant has on prior occasions made material misrepresentations regarding the nature or scope of any event or activity previously permitted, has held prior special events without proper permitting or licensing, or has violated the terms of a prior permit issued to or on behalf of the applicant.

- (2) A permit may be denied, or conditions placed thereon, based upon considerations of the health, safety, and welfare of the community, and of the anticipated costs of holding such event.
- (3) The application is not fully completed and applicant failed to include additional information as requested;
- (4) The application contains material falsehood or misrepresentations;
- (5) The applicant is not legally allowed to sign the application on behalf of an organization;
- (6) The intended special event, use or activity would present an unreasonable danger to the health and safety of individuals expected to participate in the event, the neighborhood in which the event will take place, or village property and resources required to be involved with the proposed event;
- (7) Activities expected to occur at the intended special event are prohibited by law;
- (8) The intended special event would result in a concentration of persons, vehicles, or things which cannot be supported at the requested time or location due to a lack of sufficient open areas, streets, offsite parking, or traffic controls.
- (9) Failure to provide an insurance certificate, when required.

Sec. 10-28. Special event cancellation or suspension

The village manager may suspend or cancel a special event license at any time and without prior notice if:

- (1) The applicant fails to comply with any conditions placed on the license,
- (2) The applicant violates the requirements of this article or any other applicable federal, state, local laws;
- (3) Conditions exist which would adversely affect public health or safety;
- (4) Conditions exist that would place facilities, grounds, or other natural resources at a substantial risk of damage or destruction if the special event were permitted to take place.

Sec. 10-29. Appeals

Any person aggrieved by any decision of the village manager relating to the granting, denial, suspension or cancellation of a special event license may appeal the decision to the village board. Such appeal shall be filed with the village clerk within (30) thirty days after the action taken or the notification to the applicant of the decision regarding the special event license.

Sec. 10-30. Penalty

In addition to any other penalty, any person convicted of violating any of the provisions of this article or any of the conditions of the license issued in accordance with this article shall be subject to a forfeiture as provided by Section 1-7 of the Menomonee Falls Municipal Code.

Appendix B

Chapter 10 - AMUSEMENTS AND ENTERTAINMENTS

ARTICLE I. - IN GENERAL

Secs. 10-1—10-19. - Reserved.

Sec. 10-20. - Transfer of license or permit.

- (a) Licenses or permits issued under this chapter shall not be transferable from one person to another, nor from one premises to another.
- (b) As used in the previous subsection, the phrase "transferable from one person to another" includes any of the following:
 - (1) The sale, lease, or sublease of the business;
 - (2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or other means; or
 - (3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of the law upon the death of the person possessing the ownership or control.

ARTICLE II. - CARNIVALS, CIRCUSES AND STREET FAIRS

Sec. 10-21. - Permit and fee required.

No carnival, street fair, theatrical performance, exhibit, circus or show shall be conducted in the village without a permit, except theatrical performances sponsored by schools or churches and performed within the particular school's or church's own building. The fee for such permit shall be as determined in section 42-10(1), and the permit shall be issued upon payment of such fee.

Secs. 10-22—10-40. - Reserved.

ARTICLE III. - THEATERS

DIVISION 1. - GENERALLY

Sec. 10-41. - Definitions.

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

Theater means any building or part of a building regularly or generally used for the exhibitions of movies or the performance of theatrical, operatic, vaudeville or other plays and performances to which an entrance fee is paid, but shall not include buildings or parts of buildings used only occasionally for the exhibition of movies or the performance of plays, lectures, concerts, and the like.

Sec. 10-42. - Duties of licensee.

A licensee under this article shall comply with the following requirements and standards of operation:

- (1) *Conduct and operation.*
 - a. *Quiet and good order.* The licensee shall maintain quiet and good order upon the premises where any theater or drive-in theater is operated, and loitering shall not be permitted in or about the entrances to or exits from such theater.

- b. *Hours of operation.* The licensee shall not conduct any show, exhibition or entertainment or remain open to the public between 2:00 a.m. and 12:00 noon on Sunday, and between 2:00 a.m. and 9:00 a.m. on other days, except that when daylight saving time is in effect the closing hour shall be 3:00 a.m.
- c. *Children must be accompanied.* The licensee shall not admit any child under the age of 15 years to any drive-in theater unless accompanied by or with the express consent of and in direct personal charge of such child's parent or other responsible person.
- d. *Gambling prohibited.* The licensee shall not, either directly or indirectly, maintain, operate or carry on any lottery, game of chance, game of skill, bank night, screeno, luck-o-grams, or any other games of similar nature, or engage in any similar device or plan.
- e. *Consumption of intoxicating beverages on premises prohibited.* No person shall consume or be permitted to consume any alcoholic or fermented malt beverages on the premises of a theater or drive-in theater.

For the purpose of enforcing this subsection (1), any officer of the police department of the village may, while on duty and during the hours in which the licensed premises is open for business, enter upon the licensed premises.

(2) *Standards for maintenance of premises.*

- a. *Access.* A drive-in theater licensee shall provide access to public streets or other public ways from at least two points at all times. Such means of access shall be kept clear by the licensee at all times to facilitate departure of persons in vehicles and to permit entrance of fire apparatus or ambulances in case of emergency. Drives shall be channelized by the licensee and limited to not more than three lanes to control traffic.
- b. *Paving or treatment.* All drives and areas used by vehicles must be satisfactorily paved by the drive-in theater licensee or treated to avoid creating dust.
- c. *Lighting.* Exits and aisles, and passageways leading to them, shall be kept adequately lighted by the theater and drive-in theater licensee at all times when open to the public. The licensee shall provide artificial light whenever natural light is inadequate.
- d. *Electrical installations.* Except as otherwise provided by law, the theater and drive-in theater licensee shall provide electrical installations conforming to the requirements of the village electrical code. The electrical system shall be installed, maintained and operated in a safe and workmanlike manner. Installations shall be inspected and approved by the village electrical inspector before the theater is opened to the public and shall thereafter be open to inspection by the electrical inspector at all reasonable hours.
- e. *Fire extinguishing equipment.* Fire extinguishing equipment shall be furnished by all licensees in such amount and in such locations as may be directed by the fire chief. Fire extinguishing equipment shall be inspected and approved by the fire chief before the theater is opened to the public and shall thereafter be open to inspection by the fire chief at all reasonable hours.
- f. *Sanitary facilities.* Adequate and proper sanitary facilities, approved by the health authority, shall be provided by all licensees.
- g. *Attendants.* At all times when any theater is open to the public, the licensee shall provide an adequate number of qualified attendants on duty at all times, who shall patrol the

exits, entrances and parking spaces to see that order is maintained, that disorderly or immoral conduct is prevented, that the entrances and exits are kept free from congestion, and that this section and all other governing ordinances, rules and regulations pertaining to theaters are observed.

- h. *Fence or wall.* The licensee of any drive-in theater shall provide a wall or fence of adequate height to screen the patrons and cars in attendance at the theater from the view of the surrounding property. Such fence shall be of design and structure approved by the building inspector. The perimeter of the fence shall be landscaped with suitable plants and shrubbery to preserve, as far as possible, harmony with the appearance of the surrounding property.
- i. *Noise.* Individual loudspeakers for each car shall be provided, and no central loudspeaker shall be permitted by the drive-in theater licensee.
- j. *Commercial activities.* Any sale of soft drinks, confections or other articles of merchandise shall be governed by the laws and ordinances governing such business and shall require the same license as if such sales were conducted elsewhere.

Secs. 10-43—10-55. - Reserved.

DIVISION 2. - LICENSE

Sec. 10-56. - Required.

No person shall operate a theater or drive-in theater in the village without first obtaining a license as provided in this division.

Sec. 10-57. - Application procedure.

- (a) Applications for licenses shall be made upon forms provided by the village manager or village manager's designee, and shall state:
 - (1) The name, home address and proposed business address of the applicant;
 - (2) The capacity of the theater in terms of seats;
 - (3) The hours of operation of such theater; and
 - (4) Such other information as may be reasonably necessary to effectuate the purpose of this section.
- (b) An application for a drive-in theater permit shall be accompanied by a plan or drawing of such drive-in theater, showing its location, size and capacity; location and size of entrances and exits; kind of ground surface; location, size and construction of all structures; location, size and construction of walls, fences or barriers surrounding such premises.

Sec. 10-58. - Investigation.

After receipt of an application, the village manager or village manager's designee shall refer it to the village staff for an investigation as to compliance with all laws and ordinances.

Sec. 10-59. - Issuance.

When an application is approved by the village staff, which approval will be given if the theater will comply with all laws and ordinances, and the village manager or village manager's designee has determined that all procedural requirements of this division have been met. Such village manager or

village manager's designee shall issue the license required by this division upon payment of the license fee.

Sec. 10-60. - Term.

All licenses issued under this division shall expire on December 31 in the year in which the license was issued.

Sec. 10-61. - Suspension and revocation.

- (a) Any license issued under this division shall be suspended or revoked by the village board after public hearing upon report to it by any investigating department which has approved the issuance of such license that:
 - (1) The licensee is operating in violation of this division or any other governing law, ordinance or regulation.
 - (2) The licensee is operating so as to constitute a nuisance by reason of noise on the premises.
- (b) Notice of such public hearing or such suspension or revocation shall be promptly communicated to the holder of such license by the village manager or village manager's designee by mailing such notice to the applicant at the address set out in the application for such license.

Secs. 10-62—10-80. - Reserved.

ARTICLE IV. - AMUSEMENT DEVICES AND ARCADES

DIVISION 1. - GENERALLY

Sec. 10-81. - Definitions.

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

Amusement arcade means any establishment or location at which 11 or more amusement devices, as defined in this section, are maintained for public use. Amusement devices which are maintained in a private residence and which are not held out for public use do not constitute an amusement arcade under this article.

Amusement device means any machine, whether mechanical or electronic, or other device which is held out for public use as a game of entertainment, amusement, skill or chance, whether or not a fee is charged for such play. Amusement devices include, but are not limited to, pinball machines, electronic game machines and pool tables.

Sec. 10-82. - Penalty for violation of article.

In addition to or in lieu of suspension or revocation, violations of the provisions of this article shall be punishable in accordance with section 1-7 of this Code.

Sec. 10-83. - Purpose of article.

It is the desire of the village to provide for the regulation and supervision of business establishments which maintain amusement devices for public use. It is the intent of this article to ensure that such establishments are operated in an orderly manner and that such machines are not used for illegal gambling, constitute a public nuisance, or contribute to disturbances of the peace.

Sec. 10-84. - Violation of state law.

No amusement device covered by this section may be used in violation of Wis. Stats. ch. 945.

Sec. 10-85. - Supervision of premises.

There shall be constant, adequate supervision by an adult supervisor on the premises of persons using the premises so as to prevent violation of any law or ordinance.

Sec. 10-86. - Music or noise from devices.

Music or noise generated by any device shall not unreasonably disturb residents of adjoining residential property.

Sec. 10-87. - Condition of premises.

Premises in which amusement devices are located and used by the public shall at all times be kept in a clean, healthful and sanitary condition with ample approved lighting and ventilation in accordance with Code requirements. Operation shall at all times be in conformance with village building and zoning codes.

Sec. 10-88. - Service of intoxicating liquor or malt beverages.

No intoxicating liquor or fermented malt beverage may be possessed or consumed on the premises unless the premises is licensed for such purpose, nor may controlled substances, as defined in Wis. Stats. ch. 961, be consumed on the premises.

Secs. 10-89—10-105. - Reserved.

DIVISION 2. - ARCADE LICENSE AND DEVICE PERMIT

Sec. 10-106. - Required.

- (a) No person shall operate a business or maintain a location which constitutes, in whole or in part, an amusement arcade, as defined in this article, without first having obtained an amusement arcade license as set forth in section 10-107 and a conditional use permit under section 122-566(2).
- (b) No person shall maintain any amusement device which is held out for public use at any location in the village without first having obtained an amusement device permit as set forth in this division.

Sec. 10-107. - Application and investigation.

(a) *Application.* Application for an arcade license or a device permit shall be on forms provided by the village clerk-treasurer, shall be under oath and shall contain the following statements:

- (1) The name and address of the applicant or agent.
- (2) The name, address and specific location of the premises at which the amusement devices will be placed and operated.
- (3) The number and type of machines and devices at that premises.
- (4) A statement that the applicant understands and agrees to the conditions of the license or permit.
- (5) The applicant has not been convicted of a misdemeanor (not involving Wis. Stats. chs. 340—349) more than three times.
- (6) The applicant has not been convicted of a felony, unless pardoned.
- (7) The applicant has not been convicted of possession or use of a controlled substance under Wis. Stats. ch. 161.
- (8) The applicant has not been convicted of gambling, unless pardoned.

- (9) The applicant has not been convicted of crimes relating to prostitution or crimes of moral turpitude.
- (10) If the applicant is a corporation, all officers and directors owning ten percent or more of the stock of such corporation shall also sign, under oath, the application.
- (b) *Investigation.* The application shall be investigated by the chief of police or his designee who shall report his findings and make his recommendation to the village clerk-treasurer or village board prior to action thereon.

Sec. 10-108. - Issuance.

- (a) If an application under this division indicates that the premises to be licensed will not constitute an amusement arcade, the village clerk-treasurer shall, in accordance with the recommendation of the chief of police, issue an amusement device permit upon payment of the fee prescribed above. Such permits shall be issued for a period not to exceed 12 months and shall expire on June 30 of each year. The permit shall specify the maximum number of machines permitted. If the permittee increases the number of machines at the location for which the permit was granted, an amended application must be filed.
- (b) If an application filed under this division indicates that the premises described will constitute an amusement arcade, the village clerk-treasurer shall receive a combined fee for the amusement arcade license and shall not issue an amusement arcade license unless satisfied that the applicant for such license meets the requirements set forth as follows and that the issuance of such license is consistent with the purposes of this article. Any license granted under this article shall be for a period not to exceed 12 months and shall expire on June 30 of each year. Should an applicant desire to increase the number of machines permitted under the license, an amended application shall be filed with the village clerk-treasurer along with payment of any additional fee. An amended application shall be considered in the same manner as a regular application.

Sec. 10-109. - Licenses for individuals.

- (a) In determining whether the applicant is qualified for a license under this article, the village board shall consider the following factors:
 - (1) No license shall be granted to any person who has habitually been a law offender (the term "habitually" being understood to mean three convictions for petty offenses within the past three years, or a conviction of a felony, unless the person so convicted has been duly pardoned).
 - (2) No license shall be granted if the applicant fails to complete the application, if the applicant refuses to disclose any information required thereby or if the applicant misrepresents, evades or lies with respect to any answer.
 - (3) No license shall be granted to any applicant who has failed to comply with the specified conditions of a similar license during the previous 12-month period.
- (b) No corporation, firm, association or club shall be granted a license under this article except through an agent thereof first duly appointed by it who is at the time of filing application an officer, manager or member thereof, and who shall have vested in him by proper, written and executed authorization, full authority and control of the premises described on the application and of the conduct of all business and acts thereon. Such agent shall be fully qualified for a license under subsection (a) of this section and shall be personally responsible for compliance with all the terms and provisions of this article. If such appointed agents shall, during the license year, cease to be an

officer, manager or member of the corporation, firm, association or club on whose behalf the license was issued, a new license shall be required and application therefor shall be made pursuant to the terms and provisions of this article.

Sec. 10-110. - Permit fee.

The permit fee shall be as set forth in section 42-10(4).

Sec. 10-111. - Number of devices permitted.

The total number of amusement devices may not exceed the maximum number specified on the permit or license at the location for which the permit or license was granted.

Sec. 10-112. - Transfer.

Amusement arcade licenses and amusement device permits shall not be transferable. However, one amusement device may be substituted for another without permission from the village.

Sec. 10-113. - Display.

The license or permit certificate shall be displayed in a public area of the premises.

Sec. 10-114. - Suspension, revocation or nonrenewal.

- (a) In addition to any other grounds stated in this article, a license or permit may be suspended and machines sealed by the chief of police or his designee whenever there is a reasonable cause to believe that there is an immediate threat to the public health, safety or welfare by violation of a law or ordinance. Such suspension shall not be effective for more than ten days without a hearing unless agreed to in writing by the village and the licensee or his representative.
- (b) There shall be no operation of amusement devices without a license or permit during suspension or after revocation.

Secs. 10-115—10-135. - Reserved.

ARTICLE V. - DANCEHALLS, TEENAGE CLUBS, PUBLIC DANCES AND TAVERN AMUSEMENTS

DIVISION 1. - GENERALLY

Sec. 10-136. - Definitions.

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

Public dance, public ball means any dance or ball to which admission can be had, either without charge, or by payment of a fee or by the purchase, possession or presentation of a ticket, token, money or other valuable thing, or in which a charge is made for the caring of clothing or other property, or any other dance or any party where dancing is held before or after a program of some other nature than dancing to which any of the public generally may gain admission with or without the payment of a fee.

Public dancehall means any room, place or space in which a public dance or public ball may be held, or in which classes in dancing are held and instruction in dancing given for hire.

Tavern amusements means giving, permitting, producing, presenting, conducting, and offering entertainment or exhibitions consisting of music, dancing, singing, floor shows, cabaret performances, upon the premises licensed as a class B tavern to sell fermented malt beverages.

Teenage club means any room, place or space used to provide entertainment, food and nonalcoholic beverages for money, or other thing of value, and catering to a clientele comprised primarily of persons under 21 years of age.

Sec. 10-137. - Scope of article.

- (a) The provisions of this article shall apply without limitation because of enumeration in this article, to all publicly owned buildings, school, church, veterans' organizations, fraternal or private club and similar premises.
- (b) The provisions of this article shall not apply to premises licensed as class B taverns to sell fermented malt beverages in cases where instrumental music is provided by not more than three persons, nor to incidental dancing by less than ten persons at one time.

Secs. 10-138—10-150. - Reserved.

DIVISION 2. - LICENSE

Sec. 10-151. - Required for dancehall and teenage club.

- (a) It shall be unlawful for any person to hold any public dance or public ball, or tavern amusements, or to hold classes in dancing within the limits of the village until the dancehall or tavern premises in which the same may be given or held shall first have been duly licensed for such purpose. No person shall permit any room, building or real estate owned or controlled by him to be used for the purpose of public dancehall unless the premises shall be licensed as provided in this division.
- (b) It shall be unlawful for any person to open or cause to be opened, or conduct, maintain, operate or manage any teenage club within the village without first having obtained a license as set forth in this division. No person shall permit any room, building or real estate owned or controlled by him to be used for the purpose of a teenage club unless the premises shall be licensed as provided in this section.

Sec. 10-152. - Classes of licenses.

There shall be following classes of public dancehall, public ball, or tavern amusement licenses:

- (1) *Class 1 dancehall license.* When issued by the village manager or village manager's designee under authority of the village board, shall entitle the holder thereof to permit public dances and balls to be held on premises having a minimum of 2,000 square feet of floor space for the exclusive purpose of dancing, and such dancehall is separated from but connected with premises licensed as a class B tavern to sell fermented malt beverages.
- (2) *Class 2 dancehall license.* This license, when issued by the village manager or village manager's designee under the authority of the village board, shall entitle the holder of such license to permit public dances and balls to be held on premises having a minimum of 1,200 square feet of floor space for the exclusive purpose of dancing, and such dance or ball is separated from, but connected with, premises licensed as a class B tavern to sell fermented malt beverages.
- (3) *Class 3 dancehall license.* This license, when issued by the village manager or village manager's designee under the authority of the village board, shall entitle the holder of such license to permit public dances to be held on premises having a minimum of 1,200 square feet of floor space for the exclusive purpose of dancing and is not connected in any way with premises licensed in any manner for the dispensing or consumption of alcoholic beverages.
- (4) *Tavern dance license.* This license, when issued by the village clerk-treasurer under the authority of the village board, shall entitle the holder of such license to permit public dances to

be held on premises having less than 1,200 square feet, but more than 100 square feet of floor space for the exclusive purpose of dancing, and such dance floor space is an integral part of a premises licensed as a class B tavern to sell fermented malt beverages, but this license shall not permit entertainment, exhibitions or floor shows.

- (5) *Tavern amusement license.* This license also known as a nightclub license, when issued by the village clerk-treasurer under the authority of the village board, shall entitle the holder of such license to give, permit, produce, present, conduct and offer entertainment or exhibitions consisting of music, dancing, singing, floor shows, cabaret performances upon the premises licensed as a class B tavern to sell fermented malt beverages, and shall permit dancing by patrons, provided that there is a minimum of 100 square feet of floor space for the exclusive purpose of such dancing.
- (6) *Teenage club license.* This license, when issued by the village manager under the authority of the village board, shall entitle the holder of such license to operate a teenage club on premises having a minimum of 1,500 square feet, excluding kitchen, restroom and entrance areas on the ground floor level or first floor of the building. Dancing shall be permitted, provided that there is a minimum of 300 square feet of floor space for the exclusive purpose of dancing at any time and a minimum of ten square feet for every person when more than 30 persons are dancing simultaneously.
- (7) *Special event license.* This license, when issued by the village clerk-treasurer under the authority of the village board, shall entitle the holder of such license to give, permit, produce, present, conduct and offer entertainment or exhibitions consisting of music, dancing, singing, floor shows, cabaret performances upon the premises licensed as a class B fermented malt beverage tavern and shall permit dancing by patrons for a special promotion, celebration or other special event. The duration of a special event under the terms of this license shall not exceed four consecutive days and no more than five such events shall be permitted at any one such class B licensed premises during any calendar year.

Sec. 10-153. - Application; filing; contents.

The application for such license shall be filed with the village manager or designee. Such application, provided by the village, shall state:

- (1) The names, residences and ages of the applicants, if an individual, firm or partnership, or the names of the principal officers, their residences, and ages, if the applicant is an association or corporation.
- (2) The names of persons whom such firm, partnership, corporation or association shall designate as manager or person in charge, with the addresses of such persons.
- (3) Length of time such applicant, if an individual, firm or partnership, or the manager or person in charge, if the applicant is a firm, partnership, corporation or association, has resided in the village, his places of previous employment, whether a citizen of the United States and a resident of the village, whether he has been convicted of violating any law or ordinance regulating the conduct of public dancehalls or public dances or teenage club and, if so, when and in what court.
- (4) The premises where such public dance or public dancehall or teenage club is to be located or conducted, giving street and number of all entrances, the location of the rooms to be occupied and the total amount of square foot space to be used for dancing purposes.

- (5) Whether the applicant or manager had, either alone or with someone else, previously engaged as owner or employee in conducting a public dancehall, when and where and for how long.
- (6) The name and address of the person owning the premises for which a license is sought.
- (7) Whether a hotel, roominghouse or lodginghouse is conducted in any part of the premises for which a license is sought.
- (8) Such other information as the village manager or his designee may require.

Sec. 10-154. - Qualifications of applicants for dancehall licenses and teenage club licenses.

- (a) No license shall be granted to any person to hold any public dance or public ball or tavern amusements and teenage club activity within the village who:
 - (1) Is not 18 years of age.
 - (2) Is not a citizen of the United States and has not resided in the village continuously for 90 days prior to application or does not agree, in writing, by signing the application for such license to become a resident of the village within 180 days of the granting of the license.
 - (3) Has been convicted of a felony unless such person has been pardoned.
 - (4) Has been a habitual petty law violator or has been convicted more than once in the five years immediately prior to the date of application of violating any provisions of this article.
- (b) The provisions of this section shall not apply to state corporations, but shall apply to all officers and directors of such corporations, and to officers, directors and persons in charge or control of the operation of schools, churches and similar organizations.

Sec. 10-155. - Investigation; issuance.

- (a) Whenever any applicant for a license, as provided for in this article, shall have complied with all the conditions and regulations therein contained relative to the filing of the application, it shall be the duty of the village manager or designee to investigate or cause to be investigated each original application for a dancehall license. The village staff who shall inspect or cause to be inspected each application to determine whether the public dancehall sought to be licensed complies with the regulations, ordinances and laws applicable thereto. The staff shall furnish to the village manager or designee in writing a recommendation as to whether the license should be granted or refused and the reasons therefor.
- (b) No license shall be renewed except after inspection, and no alterations, changes or additions shall be made to such licensed premises without a building permit. Renewal licenses, if favorably approved, may be automatically issued by the village manager or designee.

Sec. 10-156. - Premises to conform to state and local regulations.

No license for a public dancehall or a tavern dance or teenage club or amusement premises shall be issued until it shall be found that such premises complies with and conforms to all code provisions, health and fire regulations of the village and state, that it is properly ventilated and supplied with sufficient toilet conveniences and is a safe and proper place for the purposes for which it is to be licensed.

Sec. 10-157. - Date of expiration; posting.

Each license granted under this article, except as provided in section 10-158, shall expire on June 30 next after the granting of such license, and the license shall be posted in a conspicuous place within the

hall in which the dance is held. Each license shall by its terms be made subject to revocation as provided in section 10-161.

Sec. 10-158. - Area for dancing; signage.

Each dancehall or tavern amusement license or teenage club license issued shall show the number of square feet to be used for the exclusive purpose of dancing and the number of persons who may be dancing at one time at the ratio of ten square feet per person. A sign with letters and numbers no less than two inches in height, stating the maximum number of persons who may be dancing at one time, shall be posted in at least two conspicuous places, one of which shall be at the main entrance to the premises licensed as a dancehall.

Sec. 10-159. - Exhibition of nude body.

No tavern amusement license nor any other license issued by the village manager or designee under the authority of the village board shall permit the indecent exhibition of the nude human body, in whole or in part.

Sec. 10-160. - Fees.

The fees which shall be paid to the village for licenses required by this division shall be as established in section 42-10(4)

Sec. 10-161. - Inspection.

It shall be a condition of any license issued under this article that the licensed premises may be entered and inspected at any reasonable hour by the village manager or designee without any warrant, and the application for a license under this article shall be deemed a consent to this section. Any refusal to permit such inspection shall automatically operate as a revocation of any license issued under this article, and shall be deemed a violation of this article.

Sec. 10-162. - Revocation.

- (a) The village board of trustees may, at any time after giving five days' written notice to the licensee of an opportunity to be heard by the village board and after such hearing shall have taken place, revoke any license granted under the provisions of this article for disorderly conduct on the premises or upon proof that the premises or a public function given under the same auspices was frequented by a disorderly person, or for the violation of any rules, regulations, ordinances or laws pertaining to the conduct of the licensed business or activity.
- (b) Whenever any license or permit shall be revoked, no refund of any unearned portion of the license fee paid shall be made, and at least six months from the time of such revocation shall elapse before another license or permit shall be given to conduct a public dance in the same premises. Notice of such hearing and the reason therefor in writing shall be served by the village manager or designee upon the person named in the application by mailing the notice to the address given in the application.