

## CHAPTER XI

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## CHAPTER XI

### LICENSES AND PERMITS

#### 11.01 Juke Boxes.

(A) Juke Box License. No person shall operate or maintain any device or instrument which reproduces music by mechanical means, which devices are commonly known as juke boxes, within the Village without having first obtained a license therefor.

(B) Pin Ball Machine License. No person shall keep or operate within the Village any pin ball machine or other coin machine devise, which for the purpose of obtaining the privilege of playing with or upon, the payment of money or other valuable things is directly or indirectly required or permitted to be paid or given, without first having obtained a license therefor.

(C) License Fees. The license fee for the operation of each juke box, pin ball, or coin machine in any premises shall be as set forth in Appendix "A" Fee Schedule.

(D) Application for License. License applicants shall submit to the Village Administrator the license fee and a written application, which shall designate the premises on which the juke box or pin ball machine is to be located. Licenses shall be issued by the Village Board and shall be for a period of one year from July 1 to June 30 of the following year.

(E) Penalty. Any person who violates any provision of this Section shall upon conviction forfeit not less than Ten (\$10.00) Dollars or more than One Hundred (\$100.00) Dollars, and each day's continuance of such violation shall constitute a separate offense. Forfeiture amounts are subject to Village Board annual review and approval and may be changed from time to time by Village Board Resolution.

11.02 Dance Halls. The provisions of Section 13.02 of the La Crosse County Code regulating dance halls are hereby incorporated into this Code by reference.

(A) License Required. No person shall keep, maintain, conduct, or operate any public dance hall or place for holding public dances or place with a dancing environment within Village

limits without first securing a license.

**(B) Definitions.**

(1) The term "public dance" is hereby defined to be one which is or may be attended or patronized by the public generally, with or without tickets or charge of admission thereto.

(2) The term "public dance hall" as used in this Section shall be taken to mean any room place or space in which a public dance or public ball may be held or dance instruction for hire may be given to the public generally.

(3) The term "dancing environment" as used in this Section shall be taken to mean any business which plays music, recorded or live, that endues patrons to dance, or any business that patrons are allowed to dance to music by operators.

**(C) Application.** License applicants shall submit to the Village Administrator the license fee and a written application on a form supplied by him.

**(D) Restrictions.** No license for a public dance hall shall be issued until it shall be found that such hall complies with and conforms to all health and fire regulations of the Village, that it is properly ventilated and supplied with sufficient toilet conveniences and is a safe and proper place for the purpose for which it is to be used.

**(E) Granting License.** Upon finding that the dance hall complies with the Code and Village regulations as stated above, the Village Administrator may issue a license authorizing the holder to keep, maintain, conduct and operate a public dance hall at the place specified in the license. Such license shall be posted and kept posted at all times by the licensee in a conspicuous place in the dance hall.

**(F) License Fee.** The annual fee for a dance hall license shall be as set forth in Appendix "A" Fee Schedule and shall expire on the 30th of June following the issuance of the license.

**(G) Dance Permit.** No person may hold a public dance within Village limits without first having obtained a permit from the Village Administrator, unless the dance is to be held in a hall licensed as provided in Subsection (E) of this Section.

(1) A written application for a permit must be made to the Village Administrator on forms supplied by the Village, at least five (5) days before the dance is to be held.

(2) The fee shall be as set forth in Appendix "A" Fee Schedule for each public dance so held. The Administrator may in his/her discretion, upon payment of the fee, issue a permit authorizing the holder to conduct a public dance.

**(H) Closing Hours.** No public dance shall continue or be held or conducted by anyone during the hours of 1:00 a.m. and 6:00 a.m. on Monday through Saturday, and between 12:00 a.m. midnight and 6:00 a.m. Sunday.

**(I) Regulations.** All public dance halls shall be kept in a clean and sanitary condition and all stairways, rooms, or passages connected with a public dance hall shall be kept open and well-lighted.

**(J) Closing and Revocation.**

(1) Revocation. The Village President may, at any time, after giving notice and an opportunity to be heard to the licensee, revoke any license or permit granted under the provisions of this Section for disorderly or immoral conduct on the premises or upon proof that disorderly persons frequented the hall, or for the violation of this Code or any of the rules, regulations or laws governing or applying to public dance halls or for the protection of the general health, safety, morals or welfare. The Village Administrator shall cause notice of such a hearing and the reason thereof to be served upon the licensee. Whenever any license or permit is revoked, six (6) months shall elapse before the issuance of another for the same premises.

(2) Closing for Disorder. The Police Department shall have power to order the vacation of the place, hall or room in which a public dance is being held whenever any provision of this Ordinance is being violated, or whenever any disorder of gross, violent or vulgar character shall occur.

**(K) Penalty.** Any person who violates any provision of this Ordinance shall forfeit not less than \$10.00 nor more than \$50.00.

**11.03 Billiard and Other Tables; Bowling Alleys.**

(A) **Permit Required.** No person shall erect, place or keep, or permit to be erected, placed or kept upon his premises any bowling alley, nine or ten pin alley, billiard table, pool table or other table upon which balls are played or any objects are rolled, slid or thrown, used or kept for hire and to be used for any compensation, or to be used with or without compensation in any building where liquors are sold, without first obtaining a permit therefor. Every billiard or other table or bowling alley or nine or ten pin bowling alley so kept or placed or permitted to be kept or placed upon any premises, without a permit therefor shall constitute a separate offense under the provisions of this Section.

(B) **Permit Fee.** Any person desiring such a permit shall pay to the Village Administrator a fee as set forth in Appendix "A" Fee Schedule. No permit shall be issued for less than a year.

(C) **Issuing Permit.** Upon presentation to the Village Administrator of an application and a receipt showing the payment of the required fees and after the approval of the Village President and the Village Board, the Village Administrator shall issue a permit to the applicant which shall state the time period for which it is granted.

(D) **Penalty.** Any person who violates any provision of this subsection shall forfeit not less than Ten (\$10.00) Dollars or more than One Hundred (\$100.00) Dollars. Forfeiture amounts are subject to Village Board annual review and approval and may be changed from time to time by Village Board Resolution.

**11.04 Mobile Home and Mobile Home Parks.** The following provisions of the Wisconsin Administrative Code, and any others applicable to mobile home parks, are hereby adopted and incorporated into this Code by reference:

Secs. NR 108, Volume 11; Sec. NR 114, Volume 12

(A) **Definitions.**

(1) A "**mobile home**" is a vehicle having an overall length in excess of 45 feet or a body width of more than 8 feet designed to be towed on its own chassis (comprised of frame and wheels) as a single unit or in sections upon a highway by a motor vehicle and equipped and used or

intended to be used for year-round residential occupancy and designed to be connected to utilities, excluding, however, recreational vehicles. The mobile home include the mobile home structure, including the plumbing, heating and electrical systems and all appliances and all other equipment carrying a manufacturer's warranty.

(2) **"Mobile home park"** means any plot or plots of ground upon which two or more mobile home units, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.

(3) **"Site"** means a plot of ground within a mobile home park designed for the accommodations of one auto and one mobile home.

(4) **"Mobile home park management"** means the person legally responsible for the operation of the park.

(5) **"Recreational vehicle"** is a vehicle having an overall length of 45 feet or less and a body width of 8 feet or less primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper and motor home.

**(B) Location Outside Parks.**

(1) Inhabited mobile homes may be placed, parked or kept within the Village not to exceed 24 hours provided adequate water and toilet facilities are available to the occupants. No persons may occupy any mobile home or premises which is located outside an approved mobile home park after the first 24 hours of occupancy within the Village, except to use as a temporary office during a period of construction provided no person sleeps or lives in the mobile home, and except as the Health Department may grant permission to organizations or individuals to sponsor events within the Village limits when sanitary facilities are made available.

(2) If the owner or operator of a recreational vehicle removes or causes to be removed the wheels or any similar transporting devise from said recreational vehicle or otherwise permanently affixes it to the ground, such alteration shall constitute a conversion into a dwelling and it shall thereupon be subject to the requirements of other permanent dwellings under the Code of the State and case law.

(3) Notwithstanding any other provisions in this Section, recreational vehicles may be placed, parked or kept within the Village on private property, not to exceed seven (7) days provided adequate water and toilet facilities are available to the occupants.

Recreational vehicles which are parked in the Village merely for storage purposes are also excepted from this Section.

**(C) License for Mobile Homes Park: Application and Issuance.**

(1) No person shall establish, operate or maintain, or permit to be established, operated or maintained upon any property owned, leased or controlled by him, a mobile home park within the Village limits without having first obtained a license for each such park from the Village Administrator pursuant to this Ordinance. Such license shall expire one year from the date of issuance, but may be renewed under the provisions of this Ordinance for additional period of one year.

(2) The application for such license or the renewal thereof shall be filed with the Village Administrator and shall be accompanied by a fee as set for in Appendix "A" Fee.

(3) The application for a license or a renewal therefor shall be made on forms furnished by the Village Administrator and shall include the name and address of the owner in fee of the tract (if the fee is vested in some person other than the applicant, a duly verified statement by that person that the applicant is authorized by him to construct or maintain the mobile home park and to make the application); the location and legal description of the mobile home park; and a copy of the complete plan of the park showing the following either existing or as proposed:

- (a) extent and area used for park purposes;
- (b) roadways and driveways;
- (c) location of units for mobile homes;
- (d) location and number of sanitary conveniences, including laundries and utility rooms to be used by occupants of units;
- (e) method and plan of garbage disposal;
- (f) plan for electrical lighting of units; and
- (g) location of all sewer and water pipes

and connections.

(D) **Inspection and Enforcement.** No mobile home park license shall be issued until the Village Administrator shall notify the Health Officer of such application, and this official shall inspect or cause to be inspected each application and the premises to determine whether the applicant and the premises on which mobile homes will be located comply with the regulations, ordinances and laws applicable thereto. No license may be renewed without a reinspection of the premises, including a sanitary survey. The Health Officer shall have the duty of enforcing the provisions of this Code and shall make such inspections and reports as are necessary to achieve enforcement.

(E) **Park Plan.**

(1) Every mobile home and mobile home park shall be located on a well-drained area, and the premises shall be properly graded so as to prevent the accumulation of storm or other waters. No mobile home or mobile home park shall be located in any area that is situated so that contaminated liquids or solids can be deposited on its location.

(2) Each site shall be clearly defined and shall consist of a minimum of Four Thousand (4,000) square feet and a width of not less than forty (40') feet. Units shall be so located on a site as to allow a Twenty (20') foot clearance between units. The park shall be so arranged that all sites abut on a driveway of not less than Twenty (20) feet in width, giving easy access from all units to a public street. Such driveway shall be graveled or paved and maintained in good condition, have natural drainage, be well lighted at night, and shall not be obstructed.

(3) Every mobile home space shall be furnished with an electrical outlet. Such outlet shall be equipped with an externally operated switch or fuse of not less than Thirty (30) amperes capacity, and a heavy duty outlet receptacle. Electrical outlets shall be weatherproof, and no power lines shall be less than Fifteen (15') feet above ground.

(4) No mobile home shall be parked in a park outside of a designated site.

(5) **Recreational Area.** Each park shall contain an area of not less than 5% of its total area for the recreational use of its inhabitants.



(F) **Water Supply.** A separately valved water service shall extend to each space and the water supply shall meet all state requirements.

(G) **Waste and Garbage Disposal.**

(1) All liquid waste from laundries shall be discharged into the sewer.

(2) Every site shall be provided with sewer connections which shall comply with the State Plumbing Code. The sewer connections shall be provided with suitable fittings so that water-tight connections can be made. Such connections shall be so constructed so that they can be closed when not connected, and trapped in such a manner as to be maintained in an odor-free condition.

(3) All sanitary facilities in any unit which are not connected with a public sewer system by approved pipe connections shall be sealed, and their use is hereby declared unlawful.

(4) Each faucet shall be equipped with facilities for drainage of waste and excess water.

(5) Every mobile home unit shall be provided with a substantial fly-tight, water-tight, metal garbage depository from which the contents shall be removed and disposed of in a sanitary manner by the park custodian at least twice weekly between May 1 and October 15, and otherwise weekly.

(H) **State Board and Health Regulations.** Any regulations of the State Board of Health, now or hereafter in force, which are more stringent than the provisions of this Ordinance, shall be complied with in all respects.

(I) **Management.**

(1) In every mobile home park there shall be located the office of park management. A copy of the park license, state regulations, and of this Ordinance shall at all times be kept in said office. The licensee has a duty to keep a register, which is to be open at all reasonable times and upon reasonable notice, to inspection by appropriate state and local officials, of all owners of mobile homes located in the park.

(2) It is hereby made the duty of the attendant or person in charge, together with the licensee, to:

(a) Maintain the park in clean, orderly and sanitary conditions at all times. Remove snow and ice from roadways or walks in accordance with Section 5.04(J) of this Code. Remove or be responsible for the removal of all garbage and refuse from all mobile home sites and accessory buildings in the park and/or indemnify the Village therefor.

(b) Insure that the provisions of this Ordinance are complied with and enforced, and report promptly to the proper authorities any violations of this Ordinance or any other violation of law which may come to his attention.

(c) Report to the health officer all cases of persons or animals affected or suspected of being affected with any communicable disease.

(d) Maintain in convenient places hand fire extinguishers in the ratio of one to each eight units.

(e) Collect the monthly parking permit fee provided for in Subsection K. of this Ordinance. A book shall be kept showing the names of the persons paying said service charges and the amount paid.

(f) Prohibit the lighting of open fires on the premises.

**(J) Applicability of Plumbing, Electrical and Building Codes.**

All plumbing, electrical, building and other work on or at any park licensed under this Ordinance shall be in accordance with the ordinances of the Village and the requirements of the State Plumbing, Electrical and Building Codes and the regulations of the State Board of Health. Licenses and permits granted under this Ordinance grant no right to erect or repair any structures, to do any plumbing work, or to do any electrical work.

**(K) Monthly Parking Permit Fee.**

(1) There is hereby imposed on each owner of a nonexempt, occupied mobile home in the Village a monthly parking permit fee determined in accordance with Section 66.0435(3) of the Wisconsin Statutes which is hereby adopted by reference and made part of this Ordinance as

if fully set forth herein. It shall be the full and complete responsibility of the licensee to collect the proper amount from each mobile homeowner. Licensees and owners of mobile homes permitted to be located on land outside a mobile home park shall pay to the Village Administrator such parking permit fees on or before the 10th day of the month following the month for which such fees are due in accordance with the terms of this Ordinance and such regulations as the Administrator may reasonably promulgate.

(2) Licensees of mobile home parks and owners of land in which are parked any occupied, nonexempt mobile homes shall furnish information to the Village Administrator and Village Assessor on such homes added to their park or land within five (5) days after arrival of such home on forms furnished by the Village Administrator in accordance with Sec. 66.0435(3)(c)(2) and (e) of the Wis. Stats.

(L) **Existing Mobile Homes on Foundations.** There is also imposed on each owner of an occupied mobile home, which was permanently affixed to the ground and not located within a mobile home park, the same monthly fee, payable to the Village Administrator by such owner before the 10th day of the following month. In the event the owner is delinquent in payment of such fees, the Village Administrator may collect such delinquent fees from either the owner of the land on which it stands or the occupant of the mobile home. Interest on delinquent fees shall accrue at the same rate as on delinquent taxes, and the Village Administrator shall have all remedies for collection of such fees as are provided him by Statute for the collection of taxes.

(M) **Revocation and Suspension.** The Village Board is hereby authorized to revoke or suspend any license issued pursuant to the terms of this Section in accordance with Wisconsin Statutes.

#### **11.05 Public Passenger Vehicles.**

(A) **Licenses Required.** No person shall offer or operate a public passenger vehicle service within the Village of West Salem for the conveyance of passengers for hire or reward or regularly operate a motor vehicle upon the highways and streets of the Village for such purpose unless such public passenger vehicle(s) and its

public passenger vehicle operator(s) are licensed by the Village as hereinafter provided in this Section.

(B) **Statutory Authority.** Pursuant to Sec. 349.24, Wis. Stats., the Village of West Salem is authorized to regulate and license public passenger vehicle service businesses through licensure of vehicles and operators of public passenger vehicles, to prohibit such unlicensed activity, and to revoke such licenses in the interest of public safety. Any person licensed under this Section shall also comply with the licensing requirements of Chapter 343, Wis. Stats.

(C) **Definitions.** The following definitions shall be applicable in this Section:

(1) **Certificate of Vehicle Inspection.** A certificate of vehicle inspection is a motor vehicle inspection report issued by an authorized Wisconsin motor vehicle dealer verifying that the vehicle has passed a safety inspection, or proof of licensing of the vehicle as a public passenger vehicle by another city, village, or town located in the State of Wisconsin.

(2) **Driver (Operator).** A driver or operator is a person who holds a valid operator's license to drive a public passenger vehicle as authorized by this Section.

(3) **Meter Public Passenger Vehicle.** A public passenger vehicle equipped with a taximeter for the purpose of registering the fare charged upon the basis of the time and distance traveled.

(4) **Method of Fare Determination.** The fare shall be determined by the public passenger vehicle operator either by flat rate or by time/mileage/zones. All public passenger vehicles charging fares based upon time and mileage shall be equipped with a taximeter.

(5) **Transportation Network Company.** A transportation network company is defined in Wis. Stat. Sec 440.40(6) and carries a current license from the State of Wisconsin pursuant to Wis. Stat. Sec. 440.415.

(6) **Network Vehicle.** A network vehicle means a private passenger vehicle operated by a participating driver as defined in Wis. Stat. Sec. 440.40(3) who meets all of the insurance requirements of Wis. Stat. Sec. 440.48.

(7) **Person.** A natural person, firm, partnership, corporation, limited liability corporation, company, or any other group of individuals acting together for a common purpose; and together with associated pronouns, shall include

the male or female gender, singular, and plural, as the context in which they are used requires.

(8) Public Way. A public way is any public street, road, boulevard, alley, lane, highway, or sidewalk, including those portions of any public place under the control or management of the Village or other public entity which have been designed for use by motor vehicles.

(9) Rest Period. A rest period is a continuous, uninterrupted period of time, lasting at least ten (10) hours, during which a specific driver does not drive a public passenger vehicle.

(10) Ride Sharing. Ride sharing means a method of operating a vehicle in which passengers sharing a common portion of a trip may enter the vehicle at one or more points of origin and disembark at one or more destinations, each passenger paying an individual fare for the trip.

(11) Shuttle Vehicle. Shuttle vehicle means a privately-owned vehicle which is solely engaged in the business of carrying passengers in either a:

(a) Shared ride service for hire on a fixed route and fixed schedule to and from predetermined locations; or

(b) Group travel service for hire on a pre-reserved basis only, provided that the vehicle has a passenger-carrying capacity of five (5) or more persons, excluding the driver. "Passenger-carrying capacity" is the seating capacity of the vehicle which has been specified by the manufacturer, or established by the Chief of Police upon visual inspection of the vehicle.

(12) Public Passenger Vehicle. Any cab, taxi, auto-bus, or other motor vehicle which operates without a fixed route or schedule and which is available for hire upon demand for service, including by hail on the street or upon telephonic or other electronic request and transports passengers for hire to or from a location within the Village of West Salem, but it does not include a transportation network company or network vehicle.

(13) Public Passenger Vehicle Operator License. The license issued pursuant to the provisions of this Section for a driver to operate a public passenger vehicle for hire within the Village of West Salem.

(14) Public Passenger Vehicle Service. Any person, firm, company, partnership, holding himself/herself or itself out to the public as willing to undertake for hire, to transport persons by motor vehicle upon the public ways from and to a

location within the Village of West Salem, but it does not include a transportation network company or network vehicle.

(15) Public Passenger Vehicle License. The license issued pursuant to the provisions of this Section for the operation of each public passenger vehicle in the Village of West Salem whether the vehicle is owned by an individual or a public passenger vehicle service.

(16) Taximeter. A mechanical or electrical device which records and indicates a charge or fare calculated according to distance traveled, waiting time, traffic delay, initial charge, and other charges authorized by this Section or by rule, or any combination of any of the foregoing, and which records other data. A taximeter shall conform to the standards for such devices as established by the U.S. Department of Commerce, National Institute of Standards and Technology. Taximeters shall be sealed at all points and connections to prevent manipulation which would affect its correct reading and recording. Taximeters shall be fastened in front of passengers, readily visible at all times, day and night. Taximeters shall at all times be subject to inspection by law enforcement authorities and/or law enforcement designees.

**(D) Public Passenger Vehicle License**. No person shall operate a public passenger vehicle service in the Village of West Salem without a public passenger vehicle license for each vehicle used as part of the service. The following are exempt from the provisions of this Section:

(1) Common carriers authorized to operate by the Wisconsin Public Service Commission and/or Interstate Commerce Commission.

(2) Vehicles which operate over a regular route or between fixed terminals, such as intercity bus transportation and shared ride public transit services.

(3) Courtesy shuttles or other transportation services offered exclusively to guests and customers by motels, hotels, resorts, restaurants, taverns, or other businesses.

(4) Limousine services which are offered on a pre-arranged basis.

(5) Operators of a motor vehicle engaged solely in the business of transporting school students.

(6) Persons engaged solely in the transportation of medical patients.

(7) Vehicles which are rented to be driven by the renter or his/her agent (rent-a-cars).

(8) Ambulances and funeral hearses.

(9) Vehicles licensed by the Wisconsin Department of Transportation as human service vehicles as described in Ch. Trans 301, Wis. Adm. Code.

**(E) Application for Public Passenger Vehicle License.**

Applications for a public passenger vehicle license shall be in letter form addressed to the Village Board and shall be filed with the Village Administrator, together with the annual license fee as set forth in Appendix "A" Fee Schedule. The license year for a public passenger vehicle license shall be from January 1 through December 31. License renewals shall follow the same procedures. An application is not considered complete unless the information required below, proof of insurance, and required fees are provided at the time of application:

(1) Vehicle ownership:

(A) If vehicle is only vehicle operated by a sole proprietor as a public passenger service entity then vehicle owner name, address, and date of birth;

(B) If more than one vehicle or entity is other than sole proprietorship operating as a public passenger service entity then public passenger service entity name, address, and names and addresses and dates of birth of all owners and agents of public passenger service entity;

(2) Telephone numbers (landline, cell phone, and fax);

(3) Email address;

(4) Statement as to whether the applicant/vehicle owner has been convicted of any crime or ordinance violation(s), the nature of the offense, and place of conviction;

(5) The make, model, year, Wisconsin license plate number, and vehicle identification number(s) (VIN) of each vehicle to be used, and the maximum number of passengers each vehicle is designed to carry;

(6) Vehicle inspection report(s) required by Section (I);

(7) Proof of insurance required by Section (H);

(8) Description of method for charging fares, with a schedule of rates to be charged during the license year;

(9) A history of previous ownership or operation of a public passenger vehicle;

(10) If applicable, a copy of any license or permit to operate issued by another municipality located in Wisconsin;

(11) The name(s) and address(es) of each public passenger vehicle operator to be working for the public passenger vehicle service, with a copy of a valid Wisconsin driver's license issued to each such operator; and

(12) General description of proposed operations.

The Village Administrator shall present such public passenger vehicle license application to the Village Board at its next regular or special meeting, and the Village Board shall, by majority vote, approve, conditionally approve, or deny the license. No public passenger vehicle license shall be granted to a vehicle which is self-driving. Appropriate law enforcement authorities shall be asked to perform a background investigation and report such findings to the Village Board prior to the Board taking action.

**(F) Public Passenger Vehicle Operator License Required.** No person shall drive or otherwise operate a public passenger vehicle for hire on the public ways of the Village of West Salem without a public passenger vehicle operator license. This local license shall be in addition to any other applicable licensing requirements of the State of Wisconsin and in addition to the Village public passenger vehicle licensing requirement. Applications for the licensing of a public passenger vehicle operator shall be addressed to the Village Board and shall be filed with the Village Administrator, together with a tendered license fee prorated on the basis of the annual license fee as set forth in Appendix "A" Fee Schedule, each remaining portion of the calendar license year to be less than eleven (11) months. The application may be in letter form with the following information provided:

- (1) Applicant name, address, and age (public passenger vehicle operators shall be eighteen (18) years of age);
- (2) Telephone numbers (landline, cell phone, and fax);
- (3) Email address;
- (4) Applicant's valid Wisconsin driver's license number; and
- (5) General description of the applicant's driving record and prior experience driving a public passenger vehicle.
- (6) Applicant must present a certificate from a Wisconsin licensed medical doctor stating applicant passed a physical examination and drug and alcohol screening within forty-five days of application filing declaring applicant fit for the safe operation of a public passenger vehicle.

The Village Administrator shall present such public passenger vehicle operator license application to the Village Board at its next regular or special meeting, and the Village Board shall, by majority vote, approve, conditionally approve, or deny the



license. Appropriate law enforcement authorities shall be asked to perform a background investigation and report such findings to the Village Board prior to the Board taking action. The license year for public passenger vehicle operator licenses shall be from January 1 through December 31. As a condition to the continued holding and renewal of a license for a public passenger vehicle business, the proprietor, owner, or his or her agent shall pay to the Village the license fees computed as set forth in this Section each year on or before the 15<sup>th</sup> day of January.

**(G) License Review Criteria.** In reviewing an application for a public passenger vehicle license or public passenger vehicle operator license, the Village Board shall consider the following:

(1) The experience and competence of the applicant/vehicle owner and its operators, particularly in operating a public passenger service. This review includes the operator being of sound physique, with good eyesight, and not subject to epilepsy, vertigo, heart trouble, or any other infirmity of body or mind which might render a person unfit for the safe operation of a public passenger vehicle.

(2) The financial capability and responsibility of the applicant/vehicle owner/operator.

(3) The service provided, and record of, the applicant/vehicle owner/operator elsewhere.

(4) Record of the applicant/vehicle owner/operator of compliance with applicable regulatory laws, ordinances, and conditions of license. This includes records of complaints and enforcement actions against vehicle owners and drivers.

(5) The applicant's ability to read, write, and speak the English language to the extent necessary to operate a public passenger service vehicle licensed by the Village.

(6) The applicant's/vehicle owner's/operator's safety record, including accidents and prior driver training.

(7) The age and condition of the vehicles proposed to be licensed by the applicant.

The determination of the Village Board to approve, conditionally approve, or deny issuance of a license under this Section is final and any appeal thereof shall be to the La Crosse County Circuit Court.

**(H) Insurance Required.**

(1) Proof of Insurance. It shall be unlawful to operate for the conveyance of passengers for hire or permit the same to be operated, nor shall any license be issued hereunder

until and unless the applicant/vehicle owner for a license deposits with the Village Administrator at the time of license application or renewal a certificate of liability insurance for the vehicles for which licenses are sought, said certificate of liability insurance to be acceptable and approved by the Village Administrator and issued by a company authorized to do business in the State of Wisconsin, indemnifying the applicant, vehicle owner and all drivers in the minimum amount of One Million (\$1,000,000.00) Dollars for death, bodily injury and property damage caused by the vehicles carrying passengers for hire. Said insurance policy shall describe the vehicle(s) covered by such policy, and no vehicle shall be used by the public passenger vehicle service business unless specifically covered by this insurance policy. If conveying passengers interstate (between two or more states), the licensee shall comply with the Federal Motor Carrier Safety Administration (FMCSA) regulations (Sec. 387.31 Financial Responsibility Required).

(2) Cancellation Restrictions. Each public passenger vehicle insurance policy shall contain a provision that the same may not be cancelled before the expiration of its term except upon thirty (30) days' written notice to the Village of West Salem. Every day upon which any vehicle is operated for the conveyance of passengers for hire or when a public passenger vehicle or similar transportation is offered to the public without an insurance policy as required herein being in effect and on file with the Village Administrator shall be deemed a separate violation. The cancellation or other termination of any insurance policy issued in compliance with this Section shall automatically revoke and terminate all licenses issued for the public passenger vehicle covered by such insurance policy, unless another policy shall be provided and in effect at the time of such cancellation or termination.

**(I) Vehicle Inspection and Background Investigation Required.**

(1) Mechanical Inspection. Each public passenger vehicle shall be maintained in a safe and reliable condition. To ensure the safe condition of all vehicles used as public passenger vehicles in the Village of West Salem, the applicant shall provide the Village with a certificate of vehicle inspection current within forty-five (45) days of application and renewal.

(2) No vehicle shall be licensed until it has been annually examined by a reputable automobile repair facility

(not the owner/applicant) and found to be in a thoroughly satisfactory and safe condition for the transportation of passengers, clean, of good appearance, and adequately painted. The operator shall provide the Village with a certificate of vehicle inspection.

(3) Based on the information provided in the certificate of vehicle inspection, the Chief of Police shall determine whether said vehicle complies with this and other provisions of this Code and shall provide such findings to the Village Board and Village Administrator.

(4) If such examination and inspection shows that the vehicle does not comply with any of the requirements of this Section, no license shall be issued or renewed.

(5) At the request of the Chief of Police, the public passenger vehicle owner shall take its vehicle(s) to a reputable garage for an independent special inspection at the owner's expense at any time during the license period if there are reasonable concerns about the condition of such vehicle.

(6) The public passenger vehicle service licensee shall keep maintenance records for all vehicles employed by the business.

(7) Required Vehicle Inspection Report. No public passenger vehicle shall be licensed until a certificate of vehicle inspection has been filed with the Police Department addressing, at a minimum that:

(a) The horn, brakes, windshield, rear vision mirror, fenders, exhaust system, windshield wipers, emergency brake, directional signals, speedometer, tires, headlamps, stop lamps, and tail lamps are in legal working order as required by the Wisconsin Motor Vehicle Code. All door and window hardware shall be installed and operational. All public passenger vehicles shall have functioning heating and air conditioning.

(b) The public passenger vehicle is in generally safe, sanitary, and reliable condition and is free of odors.

(8) Liability. The inspection required by this Section is only an inspection of the public passenger vehicle's exterior and passenger areas and a basic operational condition inspection, and is not a full mechanical inspection of the public passenger vehicle. Nothing in this Section shall be interpreted as relieving the owner or operator of a public passenger vehicle from any and all liability arising from any unsafe, unsanitary, unreliable, or illegal conditions existing in his/her public passenger vehicle,

whether or not such conditions are discovered or omitted by the inspections required herein. This Section shall not be interpreted as creating a duty, warranty, or liability on the part of the Village of West Salem, its Police Department, or any employee or agent of the Village to any person.

(9) Right to Inspect. Any law enforcement officer may, at all reasonable times, inspect any public passenger vehicle under such public passenger vehicle service license and may temporarily prohibit the use of a public passenger vehicle which is unsafe or not in proper repair until necessary repairs are made.

(10) Background Investigation. As part of the license application and renewal process, the Chief of Police shall conduct a background check on the applicant and any other public passenger vehicle drivers to be employed, including, but not limited to, any motor vehicle violations or criminal convictions. The Chief of Police shall present his/her findings to the Village Board prior to action on the application.

**(J) Conditions of License.**

(1) Licenses Nontransferable. Licenses issued or granted under this Section shall be non-assignable and nontransferable.

(2) Liability of Licensee. Applicant/vehicle owners shall be liable for any violations of ordinances or statutes by any and all persons operating public passenger vehicles under its license. Failure to pay all court imposed forfeitures on public passenger vehicle operators within thirty (30) days is a basis for the Village to suspend the vehicle license used by the operator at the time of the violation until paid.

(3) Number of Passengers. No licensee or person driving a public passenger vehicle shall carry or permit to be carried in any such vehicle more than the number of persons specified in the license applicable to such vehicle.

(4) License to be Exhibited. Every person, firm, or corporation issued a license under this Section shall display the license on the inside of each public passenger vehicle.

(5) Valid Driver's License Requirement; Change in Status Notification.

(a) No person shall operate a public passenger vehicle without holding a valid Wisconsin driver's

license and a Village public passenger vehicle operator license and a Village public passenger vehicle license for the vehicle being operated. No public passenger vehicle service licensee shall permit a driver in its employ to operate a public passenger vehicle without a valid Wisconsin driver's license and a Village public passenger vehicle operator license.

(b) A public passenger vehicle service licensee shall promptly notify the Village in writing a change of status for any operator or vehicle working under their license.

(6) Accidents Involving Public Passenger Vehicles. Any licensee involved in a vehicular accident (in the Village or elsewhere) shall provide written notice of the accident to the Village within forty-eight (48) hours of the incident. The notice shall identify the operator, vehicle, date, time, and location of the accident.

(7) Fare Disclosure; Taximeter Use.

(a) Each vehicle operated as a public passenger vehicle under this Section shall plainly exhibit on the inside of such vehicle the current rates of fare, including the following information as is applicable:

- (1) Minimum or first increment rate;
- (2) Additional increment rates, if zone rates are used;
- (3) Rate per mile;
- (4) Waiting charges;
- (5) Charges for additional mileage increments;
- (6) Charges for additional passengers;
- (7) Additional charges that may apply; and
- (8) The flat rate charge, if available.

(b) Every vehicle employed as a public passenger vehicle in which the fare is determined by mileage rate or time shall contain a taximeter in good repair. Taximeters are subject to inspection by the West Salem Police Department and/or its designees. Village out of pocket costs for these inspections are an obligation of the vehicle license holder and if not paid within 45 days of billing are a basis for the vehicle license suspension of all public passenger service vehicles owned and licensed by the Village to the owner of the vehicle inspected and for which the charges were incurred. No taximeter is required if only a flat fee or zone rate is charged.

(8) Misrepresentation. It shall be unlawful for the owners, operators, drivers, or any persons engaged in the business of carrying passengers for hire governed by this Code to knowingly or carelessly misinform or mislead a customer or prospective customer as to the location of any destination and the distances and fares involved.

(9) Vehicle Changes. If at any time during the course of the public passenger vehicle service license year a vehicle listed in the original application is removed from service and replaced with a different vehicle, the Village shall be notified of such change.

(10) Unreasonable Refusal of Service. No person issued a public passenger vehicle service license shall unreasonably or unlawfully refuse to carry passengers to or from any part of the Village with reasonable promptness.

(11) Services Receipt. Upon request, a public passenger vehicle operator shall provide the party paying for the hiring of the public passenger vehicle a legible receipt at the time of payment which contains the business name, operator's name, the total amount paid for service, and the date of service.

(12) Passenger Number Limits. No public passenger vehicle operator shall carry or permit to be carried in a public passenger vehicle more persons than the vehicle is designed for.

(13) Required Operator Rest. Public passenger vehicle operators shall have rest periods in every twenty-four (24) period as defined in Section (C)(8).

(14) Village Board May Impose Further Restrictions. Any licensee hereunder shall be subject to such further regulations and restrictions as may be imposed at any time by the Village Board.

**(K) Refusal to Pay Taxi Fare Prohibited**. No person who has been transported by a public passenger vehicle in the Village of West Salem shall refuse to pay the fare for such transportation as such fare is shown on the taximeter or zone meter. Any person who violates this section shall be subject to a forfeiture of not less than Two Hundred Fifty (\$250.00) Dollars plus costs of prosecution.

**(L) License Revocation or Suspension**. Licenses granted under this Section may be suspended or revoked at any time by the Chief of Police for any violation of this Section. When a public passenger vehicle license is revoked or suspended as herein provided, the Chief of Police shall immediately notify the owner

to cease at once the operation of the vehicle(s) for which a license has been revoked. Grounds for possible revocation or suspension include, but are not limited to:

(1) Licensee fails to meet the requirements of this Section.

(2) Improper conduct by the public passenger vehicle service licensee or his/her employee or agent.

(3) Any public passenger vehicle operator who threatens the public safety or welfare, provokes or tends to provoke a disturbance, defrauds or attempts to defraud, attempts or overcharges any passenger, fails to provide adequate service, or has violated a State Statute or Village Ordinance.

(4) Any other factor or factors which reasonably relate to public health, safety, and welfare.

**(M) Prohibited Activities.** The following activities are prohibited:

(1) Permitting a nonpaying passenger or driver's pet in a vehicle when transporting a fare-paying passenger, except for the purpose of driver training. The potential passenger shall be informed of this training and offered an alternative vehicle.

(2) The directing, taking, or transportation, or offering to direct, take, or transport any person for immoral purposes, or assisting by any means whatsoever any person for such purposes, to seek or to find any prostitute or other person engaged in immoral practices, or any brothel, or bawdy house, or any other place of ill fame whatsoever, with knowledge or reasonable cause to know of the character of the person, house, or place is prohibited.

(3) Knowingly receiving any person for purposes of lewdness, assignation, or prostitution, into or upon any vehicle, conveyance, or other means of transportation, or permitting any person to remain for purposes of lewdness or prostitution, in or upon any vehicle, conveyance, or other means of transportation.

(4) Knowingly receiving and transporting any goods or substances which are contraband or illegal or otherwise restricted as to delivery or use.

(5) Using while on duty alcohol, a controlled substance, a controlled substance analog, or a combination thereof, or driving or operating a vehicle while intoxicated or under the influence of alcohol, a controlled substance, a controlled substance analog, or a combination thereof, or under the influence of any drug which renders the person incapable of

safely driving.

(N) **Appeals**. Any person who received a revocation or suspension of a license and objects to all or part thereof may appeal to the Village Board within seven (7) days of the receipt of the order, and the Village Board shall hear such appeal within thirty (30) days of receipt of such written notice of the appeal. After such hearing, the Village Board may reverse, affirm, or modify the order or determination.

(O) **Severability**. If any provision of this Ordinance is invalid or unconstitutional or if the application of this Ordinance to any person or circumstance is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid or unconstitutional provisions or applications.

(P) Any person licensed by any city, village, or town as a chauffeur and operator shall not be required to procure either a chauffeur's and operator's license or a public passenger vehicle license in the Village of West Salem for the purpose of carrying public vehicle passengers for hire from one municipality to another, but this exception does not permit the chauffeur or operator to operate a public passenger vehicle wholly within the limits of the Village of West Salem.

(11.05 Recreated 3/15/2016 - Ord. No. 470)

#### **11.06 Gasoline Filling Stations.**

(A) **Permit Required**. No gasoline vending station for sale at wholesale or retail shall be constructed and maintained within the Village nor shall any work thereon be commenced, nor shall any remodeling or renovation of any existing gasoline filling station, the estimated cost of which shall exceed Fifty (50%) percent of the assessed valuation of the gasoline filling station, until a permit therefor shall have been granted by the Board. The granting of such permits shall be in compliance with all Village Ordinances, which affect the construction, operation and maintenance of business.

(B) **Restrictions**. No station for the selling of gasoline at retail or wholesale shall be established upon any part of any public street or alley or public ground; no such permit shall be issued when the construction, reconstruction, remodeling or renovation of any gasoline filling station does not comply with the applicable zoning ordinances of the Village, nor shall any gasoline station be



located on any real estate, which real estate is within Three Hundred (300') feet of any school ground, church, old people's homes, hospitals, or medical clinics.

(C) **Application and Granting Permit.** Application for the permit required by this Section shall be accompanied by a fee as set forth in Appendix "A" Fee Schedule, which fee is non-refundable. The application shall be in writing accompanied by plans of the proposed structure and location thereof and the application for such permit must describe with particularity the place where the station is proposed to be located and the amount of gasoline and other inflammable oils which is proposed to be stored at said place. Applications shall be made to the Village Administrator who shall deliver a copy of the plans and the application to the Planning Commission. If the application and plans indicate compliance with the terms and conditions of this Ordinance, and the Planning Commission indicates its approval on the application, it shall transmit the application to the Board. A permit shall be issued by the Village Administrator upon majority vote of the Board.

(D) **Regulations.** All stations granted permits under this Section must be constructed and maintained in strict accord with the regulations of the National Board of Fire Underwriters, State laws and regulations, and Village Ordinances, and inflammable oils must be handled therein only in accord with such rules, laws, and ordinances. The stations and the premises on which the same are located must be kept free from any accumulation of oil, grease, or other inflammables and rubbish of all kinds. The same shall be maintained and operated in the manner so as to produce no smells or unnecessary noises.

(E) **Abandonment.** The provisions of Sec. Ind. 8, Wis. Admin. Code, March 1982, regulating the removal from service, abandonment and reuse of storage tanks are hereby adopted and incorporated into this Code by reference.

(1) **Temporarily Out of Service.** Storage tanks shall be rendered temporarily out of service only when it is planned that they will be returned to service at the same location within ninety (90) days. The owner may request an extension beyond ninety (90) days in writing to the Fire Department and Village Board. The following steps shall be taken:

- (a) Remove all flammable or combustible liquids;
- (b) Can or plug the fill line, gauge

opening and pump suction using appropriate sealing compound on pipe fittings; and  
(c) Leave the vent line open.

(2) Tanks Considered Abandoned. Tanks placed in a "temporarily out of service" condition for more than 90 days shall be considered abandoned and subject to removal or abandonment in place, according to Sec. Ind 8.225-.23, Wis. Admin. Code, March 1982. The following procedure shall be followed to abandon tanks in place:

- (a) Remove all flammable or combustible liquid from the tank and all connecting lines;
- (b) Disconnect the suction, inlet, gauge, and vent lines;
- (c) Fill the tank completely with a solid inert material; and
- (d) Cap remaining underground piping.

#### **11.07 Transient Merchants.**

(A) Registration Required. It shall be unlawful for any transient merchant to engage in sales within the Village of West Salem, Wisconsin, without being registered for that purpose as provided herein.

(B) Definitions. In this Ordinance:

(1) **"Transient merchant"** means any individual who engages in the retail sale of merchandise at any place in this State temporarily, and who does not intend to become and does not become a permanent merchant of such place. 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.

(2) **"Permanent Merchant"** means any person who, for at least one (1) year prior to the consideration of the application of this Ordinance to said merchant

- a) has continuously operated an established place of business in the local trade area among the communities bordering the place of sale, or

b) has continuously resided in the local trade area among the communities bordering the place of sale and now does business from his/her residence.

(3) **"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 goods by a donor or prospective customer.

(4) **"Charitable organization"** shall include any benevolent, philanthropic, patriotic, or eleemosynary person, partnership, association or corporation, or one purporting to be such.

(5) **"Clerk"** shall mean the Village Administrator who is also the Village Clerk.

(C) **Exemptions.** The following shall be exempt from all provisions of this Ordinance.

(1) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customer on established routes;

(2) Any person selling merchandise at wholesale to dealers in such merchandise;

(3) Any person selling agricultural products which the person has grown;

(4) 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;

(5) Any person who has an established place of business where the merchandise being sold 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;

(6) 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;

(7) Any person selling or offering for sale a service unconnected with the sale or offering for sale of merchandise;

(8) 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;

(9) Any employee, officer or agent of a charitable organization who engages in direct sale for or on behalf of said organization, provided that there is submitted to the Clerk or its designee proof that such charitable organization is registered under Sec. 440.41, Stats. Any charitable organization engaging in the sale of merchandise and not registered under Sec. 440.41, Stats., or which is exempt from that Statute's registration requirements, shall be required to register under this Ordinance;

(10) Any person who claims to be a permanent merchant, but against whom complaint has been made to the Clerk or Police Department that such person is a transient merchant; provided that there is submitted to the Clerk or Police Department proof that such person has leased for at least one (1) year, or purchased, the premises from which he/she has conducted business in the market area for at least one (1) year prior to the date the complaint was made.

(11) Any individual licensed by an examining board as defined in Sec. 15.01(7), Wisconsin Statutes.

(12) This Ordinance does not apply to transient merchants while doing business at special events authorized by the Village Board.

**(D) Registration.**

(1) Applicants for registration must complete and return to the Police Department a registration form furnished by the Police Department which shall require the following information:

- a) name, permanent address and telephone number, and temporary address, if any;

b) age, height, weight, color of hair and eyes;

c) name, address and telephone number of the person, firm, association or corporation that the transient merchant represents or is employed by, or whose merchandise is being sold;

d) temporary address and telephone number from which business will be conducted, if any;

e) nature of business to be conducted and a brief description of the merchandise, and any services offered;

f) proposed methods of delivery of merchandise, if applicable;

g) make, model and license number of any vehicle to be used by applicant in the conduct of his/her business;

h) most recent cities, villages, towns, not to exceed three, where applicant conducted his/her business;

i) place where applicant can be contacted for at least seven (7) days after leaving this Village;

j) 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, and the nature of the offense and the place of conviction.

(2) Applicants shall present to the Police Department for examination:

a) a driver's license or some other proof of identity as may be reasonably required;

b) 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;

c) 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 90 days prior to the date the application license is made.

(3) At the time the registration is returned, a fee as set forth in Appendix "A" Fee Schedule shall be paid to the Police Department to cover the cost of processing said registration.

The applicant shall sign a statement appointing the Police Department his/her agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant, in the event the applicant cannot, after reasonable effort, be served personally.

Upon payment of said fee and the signing of said statement, the Police Department shall register the applicant as a transient merchant and date the entry. Said registration shall be valid for a period of one (1) year from the date of entry, subject to subsequent refusal as provided in Sec. 5(B) below.

**(E) Investigation.**

(1) Upon receipt of such application, the Chief of Police shall complete an investigation of the statements made in the application. The Police Chief shall, within seventy-two (72) hours of its receipt, endorse his/her approval or disapproval upon the application.

(2) The Police Department shall refuse to register the applicant 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 most recent cities, villages and towns, not exceeding three, 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 Sec. 4(b) above.

**(F) Appeal.** Any person refused or denied registration may appeal the denial through the appeal procedure provided by Ordinance

or resolution of the Village Board, or if none has been adopted, under the provisions of Secs. 68.07 through 68.16, Stats.

**(G) Regulation of Transient Merchants.**

(1) Prohibited Practices.

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

b) A transient merchant shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity, or characteristics of any merchandise offered for sale, the purpose of his/her visit, his/her identity or the identity of the organization he/she represents. A charitable organization transient merchant shall specifically disclose what portion of the sale price of the 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.

c) 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.

d) No transient merchant shall make any loud noises or use any sound amplifying device to attract customers if the noise is produced is capable of being plainly heard outside a 100-foot radius of the source.

e) No transient merchant shall allow rubbish or litter to accumulate in or around the area in which he/she is conducting business.

**(H) Disclosure Requirements.**

(1) After the initial greeting and before any other statement is made to a prospective customer, a transient merchant shall expressly disclose his/her name, the name of the company or organization he/she is affiliated with, if any, and the identify of merchandise or services he/she offers to sell.

(2) If any sale of merchandise is made by a transient merchant, or any offer 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 \$25.00, in accordance with the procedure as set forth in Sec. 423.203, Stats.; the seller shall give the buyer two copies of a typed or printed notice of the fact. Such notice shall conform to the requirements of Secs. 423.203(1)(a)(b) and (c), (2) and (3), Stats.

(3) If the transient merchant takes a sales order for the later delivery of merchandise, he/she shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance whether full, partial, or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date, and whether a guarantee or warranty is provided and, if so, the terms thereof.

**(I) Records.** The Chief of Police shall report to the Clerk all convictions for violation of this Ordinance, and the Clerk shall note any such violation on the record of the registrant convicted.

**(J) Revocation of Registration.**

(1) Registration may be revoked by the Village Board after notice and hearing, if the registrant made any material omission or materially inaccurate statements in the application for registration, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in transient sales, violated any provision of this Ordinance or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in selling.

(2) Written notice of the hearing shall be served personally or pursuant to 4 (C) above on the registrant



at least seventy-two (72) hours prior to the time set for the hearing; such notice shall contain the time and place of hearing and a statement of the acts upon which the hearing will be based.

**(K) Penalty.** Any person adjudged in violation of any provision of this Ordinance shall forfeit not less than Ten (\$10.00) Dollars nor more than One Thousand (\$1,000.00) Dollars for each violation per day plus costs of prosecution. Each violation shall constitute a separate offense. Forfeiture amounts are subject to Village Board annual review and approval and may be changed from time to time by Village Board Resolution.

**(11.07 - Recreated 5/16/91)**

**11.08 Animal Control - Regulations and Licenses.**

**(A) State Statutes Adopted.** Except as otherwise specifically provided in this Ordinance, the provisions of Section 951.01 through 951.18 relating to crimes against animals and Chapter 174 Wis. Stats., relating to dogs, are hereby adopted by reference and made a part of this Ordinance as though fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this Code. All references in 11.08 to "owner" or "owns" includes "anyone who owns, keeps, harbors or has custody of an animal".

**(B) Licensing.**

(1) Required. Any person who owns any dog over five (5) months of age residing in the Village must obtain a La Crosse County license as herein provided. No other animals within the Village require licenses.

(2) Application. Application for licenses shall be made to the Village Administrator and shall include name and address of applicant, description of the dog, the appropriate fee, whether the dog is sexed or neutered or spayed, and a rabies certificate issued by a licensed veterinarian or anti-rabies clinic, illustrating that the animal for which the license is sought has received current immunization for rabies. (Written proof is required from a licensed veterinarian that the dog being licensed has been neutered or spayed.) Application for a license must be made within thirty (30) days after obtaining a dog over five (5) months, except that this requirement shall not apply to a owner with a dog within the Village for no longer than thirty (30) days.

(3) Fees. A license shall be issued after payment of the applicable fee as annually set forth by the County of La

Crosse.

(4) Disbursement. All dog license tax revenues shall be disbursed by the Village Administrator in accordance with the provisions of Chapter 174 Wis. Stats. The Administrator may retain the portion of the license fee for Village funds as provided for in County Ordinance.

(5) Issuance. Upon acceptance of the license application and fee, the Village Administrator shall issue a durable tag, stamped with an identifying number and the year of issuance.

(6) License Exemptions. Every animal specially trained to assist any disabled person shall be exempt from any license fee, and every person owning such an animal shall annually receive a free license, if required, from the local collecting officer upon application and proof of training.

(C) **Rabies Vaccination Required**. The owner of every dog and cat residing in the Village of West Salem that is six (6) months of age or older shall arrange for the animal to be vaccinated against Rabies (Hydrobius), and thereafter on a regular basis such that the vaccination is always current. Any person owning any dog or cat and violates this Ordinance shall upon conviction forfeit not less than Fifty (\$50.00) Dollars or more than One Hundred (\$100.00) Dollars. Forfeiture amounts are subject to Village Board annual review and approval and may be changed from time to time by Village Board Resolution. No person shall own any animal which is rabid. The forfeitures for this violation are the costs described Sub (8) below plus One Hundred (\$100.00) Dollars.

(1) Rabies Quarantine or Sacrifice of Dog or Cat. An animal control or law enforcement officer shall order a dog or cat quarantined if the officer has reason to believe that the animal bit a person, is infected with rabies or has been in contact with a rabid animal. If a quarantine cannot be imposed because the dog or cat cannot be captured, the officer may kill the animal. The officer or veterinarian shall then 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. The officer or veterinarian shall then kill the animal in a humane manner and in a manner which avoids damage to the animal's head.

(3) Quarantine Procedure. An animal control or other 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.

(4) 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.

(5) Risk to Animal's 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.

(6) Sacrifice 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. The officer or veterinarian

shall then 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.

(7) Delivery of Carcass; Preparation; Examination by Laboratory of Hygiene. An officer who kills an animal shall deliver the carcass to a veterinarian. 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 of exposure to any rabies virus. The Laboratory of Hygiene shall examine the specimen and determine if the animal was infected with rabies. The State Laboratory of Hygiene shall notify the Village, the veterinarian which prepared the carcass and, if the animal is suspected to have bitten a person, that person or the person's physician.

(8) 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. This cost, if not voluntarily paid within thirty (30) days of written notice from the Village shall be assessed as part of a fine by the Village for ownership of a rabid animal. If the owner is unknown, the Village is responsible for these expenses.

(9) Village Not Liable for Destroying Animals. The Village, including, but not limited to, law enforcement or animal control officers, shall not be liable for the death of any animal which has been destroyed pursuant to this Section.

(D) Animals Running at Large and Barking Dogs. For the purposes of this Section, the phrase "running at large" embraces all other places within the Village except the owner's premises. This includes all streets, alleys, sidewalks or other public or private property which may abut the owner's premises. An animal off of the owner's premises is not running at large if under the control of a person by means of a chain, rope, or cord of sufficient strength to control the action of the animal.

(1) No person who owns any cattle, horses, mules,

donkeys, sheep, goats, other bovinæ, swine, poultry or fowl, shall allow or permit the same to run at large within Village.

(2) It shall be unlawful for the owner of any animal to permit the same to run at large in the Village.

(3) (a) No owner shall keep or allow to be kept about the owner's premises any dog which shall repeatedly by barking, howling, or other noise disturb the peace and quiet of any person or persons in the vicinity thereof.

(b) It shall be unlawful for any person to keep or house a dog outside the primary residence, between the hours of 10:30 p.m. and 7:00 a.m. when the owner of the dog has been notified of three (3) verified complaints within any six-month (6) period made to the Police Department of frequent or habitual barking, howling, or other noise.

(4) No owner shall keep or allow to be kept a vicious dog. A vicious dog is defined as one which bites two (2) or more persons.

(5) It shall be unlawful for any owner to allow the owner's animal to cause any damage to, or in any way injure another's shrubs, trees, lawns, gardens, or any part of another's property, public or private. Should the animal defecate on public or private property, other than the owner's, the animal's owner is required to immediately remove the dispose of the feces in a sanitary manner.

(6) It shall be unlawful to have any animal, such as, but not limited to, dogs and cats on West Salem School District property. Certified Service Animals shall be exempt from this prohibition.

(7) Impounding of Animals. In addition to any penalty hereinafter provided for a violation of this Ordinance, any animal control or law enforcement officer may impound any dog, cat, or other animal which bites, assaults or attacks any person or is found to be "running at large" within the Village limits.

(8) Claiming Animal; Disposal of Unclaimed Animals. After seizure of an animal pursuant to Ordinance 11.08, Section (D), by a law enforcement officer or animal control officer, the animal shall be impounded. The officer shall notify the owner, personally or through U.S. Mail, if such owner is known to the officer or can be ascertained with reasonable effort. If within seven (7) days after such notice the owner does not claim such animal, the officer may authorize sale of the animal in a proper and humane manner; provided, if an animal before being impounded has bitten a person, the animal shall be

retained in an animal shelter or other similar facility for ten (10) days for observation purposes. Within such times, the owner may reclaim the animal upon payment of impoundment fees, plus the actual cost of boarding the animal for each day or fraction thereof the dog or cat has been so impounded. Owners of unlicensed dogs shall also obtain a license prior to release of an impounded animal. No dog shall be released from the animal shelter or other similar facility without being properly licensed as required by Village Ordinance.

(9) Village Not Liable for Impounding Animals. The Village, including, but not limited to, law enforcement or animal control officers, shall not be liable for the death of any animal which has been impounded pursuant to this Section. **(11.08(D)(6) added by Ordinance 488 - 06-18-19)**

**(E) Owning Pets/Animals.** The owning of dogs, cats and rabbits in excess of the numbers listed herein, within the Village limits of West Salem, detracts from and, in many instances, is detrimental to, healthful and comfortable life in such areas and is hereby declared a nuisance, unless a written permit is obtained from the Village Administrator for the excess. (This Section does not apply to Veterinary Clinics or Animal Grooming Facilities located within areas Zoned Business, which incidental to their primary business board animals inside for fourteen (14) days or less.)

(1) No written permit is required from the Village Administrator for persons within the Village limits of West Salem who own no more than:

Two (2) dogs over the age of five (5) months;

Two (2) cats over the age of five (5) months;

Unlimited dogs, cats and rabbits under the age of five (5) months as long as they are the litter of the allowed number of dogs, cats and rabbits.

(2) Any animal owner who wishes to keep a number of animals in excess of the number permitted in Subsection (1) must request a special written permit from the Village Administrator. This special written permit must be granted prior to the resident keeping an excess number of animals described in this Subsection and must be requested in writing on Village forms and contain the following information: owner's name, physical address where animals are kept, owner's mailing address and telephone number, description of all dogs, cats and rabbits kept at the address by animal name, age, sex, whether neutered or spayed, prior biting history, current licensure of dogs by license number, a copy of current rabies

vaccination for all dogs and cats, a current photograph of each animal, a listing of all current veterinarians the animals see and continuing unlimited consent allowing all veterinarians that treat any of the listed animals to disclose the animals health and biting history to the Village, for each animal which will be kept outside for any period of time and not in the presence of the

owner who also would be outside with the animal a description of any cage, fencing or housing to be provided for said animal, and amount of time each animal would be outside, and a description of why the requestor would like an additional animal. The fee for the initial permit application shall be set forth in Appendix "A" Fee Schedule, and no fee shall be required for renewal applications.

(3) The Village shall only issue a special written permit after a Village Board finding of fact that no nuisance will be created thereby. Examples of a nuisance would be excessive animal noises or smells on neighboring properties, excessive animals at large, and/or failure to pick up and dispose of animal wastes on owner's property every week. This listing of nuisance examples is not exhaustive. Renewal permits shall only be issued upon a finding of fact that no nuisance has been created or will be created thereby. Prior to acting on an initial or renewal permit request, the Village Administrator shall mail notice of such request to all property owners within Three Hundred (300') feet of the address where the excess animal is proposed to be kept at least ten (10) days prior to the Village Board meeting at which the permit request will be heard. The initial permit requires Village Board approval after receiving recommendations from both the Village Administrator and Police Chief regarding any concerns or complaints.

(4) Initial permits issued by the Village under this Section shall be limited to a term of one (1) year. A renewal application must be filed upon the expiration of any permit. A renewal application must update any change of information since the previous application was filed. Upon receipt of a renewal application and after receiving recommendations from the Police Chief, the Village Administrator shall issue renewal permits for periods of time determined at his or her discretion. The Village Administrator shall only issue a renewal permit after a determination that no nuisance has been created thereby. If issues, concerns, complaints, or a determination of nuisance exists, the Village Administrator shall present such renewal application to the Village Board for review and action.

(5) The Village Board has the power to revoke the excess animal permit after a Village Board finding of fact that a nuisance exists or has been worsened by the allowance of the excess animal. (Ord. 468 - 10/06/2015)

**(F) Prohibited Animals.**

(1) No person of any Zoning District of the Village of West Salem shall keep any of the following wild animals, nor shall any special written permits for the same be issued by the Village:

- (a) All poisonous reptiles and snakes;
- (b) Apes, chimpanzees, gibbons, gorillas, orangutans or baboons;
- (c) Constrictor snakes;
- (d) Coyotes;
- (e) Game cocks or other fighting birds;
- (f) Pumas (commonly known as cougars, mountain lions and panthers);
- (g) Wolves;

(2) No person who owns cattle, horses, mules, donkeys, sheep, goats, or other bovine, swine, poultry or fowl shall keep said animals within the Village limits except in areas Zoned Agriculture, nor shall any special written permits for the same be issued by the Village.

(3) Exceptions. The prohibitions set forth in Ordinance 11.08, Section (F), Subsection 1 and 2, shall not apply where the creatures are in the care, custody or control of: a State-licensed game farm; 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 or zoological gardens if:

- (a) Their location conforms to the provisions of the zoning ordinances of the Village;
- (b) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to minimize objectionable odors;
- (c) Animals are maintained in quarters so constructed as to prevent their escape;

**(G) (1) Multiple Violations.** Any person who has been cited for two separate offenses under Section 11.08 for the same animal shall be required to maintain said animal under the personal control of the owner at all times.



(2) Penalty. Any person violating any provision of this Section 11.08 shall be subject to a forfeiture of not less than Twenty-five (\$25.00) Dollars nor more than Two Hundred Fifty (\$250.00) Dollars for each offense. Each day of the violation shall constitute a separate offense. Forfeiture amounts are subject to Village Board annual review and approval and may be changed from time to time by Village Board Resolution.

**11.09 Snowmobiles.**

**(A) State Snowmobile Laws Adopted.** Except as otherwise specifically provided in this Ordinance, the statutory provisions describing and defining regulations with respect to snowmobiles in the following enumerated sections of the Wisconsin Statutes are hereby adopted by reference and made part of this Ordinance, as if fully set forth herein. Acts required to be performed or prohibited by such statutes are required or prohibited by this Ordinance except as specifically modified by this Ordinance.

- 350.01 (Definitions)
- 350.02 (Operation of snowmobile on or in the Vicinity of a highway)
- 350.03 (Right-of-Way)
- 350.035 (Meeting of snowmobiles)
- 350.04 (Snowmobile races, derbies and routes)
- 350.045 (Public utility exemptions)
- 350.05 (Operation by youthful operators restricted)
- 350.07 (Driving animals)
- 350.08 (Owner permitting operation)
- 350.09 (Head lamps, tail lamps and brakes)
- 350.095 (Noise level requirements)
- 350.10 (Miscellaneous provisions for snowmobile operation)
- 350.101 (Intoxicated snowmobiling)
- 350.102 (Preliminary breath screening test)
- 350.1025 (Application of intoxicated snowmobiling)
- 350.103 (Implied consent)
- 350.104 (Chemical tests)
- 350.106 (Report arrest to department)
- 350.107 (Officer's action after arrest for operating a snowmobile while under the influence of Intoxicant)
- 350.11 (Penalties)
- 350.115 (Snowmobile registration restitution surcharge)
- 350.12 (Registration of snowmobiles, trail use)

- sticker)
- 350.13 (Uniform trail signs and standards)
- 350.135 (Interferences with uniform trail signs & standards prohibited)
- 350.15 (Accidents and accident reports)
- 350.17 (Enforcement)
- 350.19 (Liability of landowners)
- 346.02(10) (Applicability of rules of road to snowmobiles)

**(B) Snowmobile Route and Trails Designated and Other Regulations.**

(1) Except as provided in Sec. 350.02 and 350.045 of the Wisconsin Statutes, or for snowmobile events authorized in accordance with Sec. 350.04, Wis. Stats., no person shall operate a snowmobile upon any public right-of-way (which means on the paved portion of any road, the shoulder, boulevard, sidewalk or any other area of the right-of-way), in any Village-owned park, or on any other Village-owned property located in the Village of West Salem except operation is allowed upon the following areas which are designated for the purpose of "residential access" and "access from lodging" ("access" means in or out of the Village, to the State Bicycle Trail also known as State Corridor Trail 30 which lies parallel to and lies between Jefferson and Elm Streets or any other State-approved Trail):

The paved portion of all highways, streets and alleys in the Village; South of the paved portion of Buol Road which lies East of South Mill Street; East of the paved portion of County Highway M; except no operation is allowed within the right-of-way of Leonard Street north of Elm, Garland Street, Jefferson Street, Neshonoc Road, State Highway 16, the remainder of County Highway M, the remainder of Buol Road and that part of Elm Street between West Avenue and Oak Streets. (Perpendicular crossing of these excepted streets, roads and highways is allowed under Sec. 350.02(2)(a)(1) Wis. Stats.) The east and south boundaries of the Village Park adjacent to Hamilton and Mill Streets may be used as a residential access route.

(2) No person shall fail to obey any sign erected in accordance with this Ordinance or to violate the terms of this Ordinance.

(3) It shall be unlawful to operate a snowmobile upon any public right-of-way (which means on the paved portion of any road, the shoulder, boulevard, sidewalk or any other area of the right-of-way), in any Village-owned park, or on any other Village-

owned property in the Village of West Salem for the purpose of recreational or pleasure riding, except those who had been riding on the State Bicycle Trail (also known as State Corridor Trail 30) may leave the trail and park a snowmobile or load a snowmobile onto a trailer within the area delineated as north of the centerline of Jefferson Street, south of the centerline of Elm Street, west of the centerline of Mill Street and east of the centerline of Youlon Street. Within this same area individuals may off load snowmobiles from trailers so as to be able to access the State Bicycle Trail (also known as State Corridor Trail 30). This limited recreational use of Village property shall not require the operator to be registered or require the operator to be riding with someone that is registered.

(4) Speed. No person shall operate a snowmobile at a speed in excess of twenty (20) miles per hour at all times, except between 10:30 p.m. and 7:00 a.m. when within 150 feet of a dwelling the maximum rate of speed shall be ten (10) miles per hour, in any area which are designated areas for the purpose of "residential access" and "access from lodging" by this Ordinance.

(5) Unattended Snowmobiles. No person shall leave or allow a snowmobile to remain unattended on any public right-of-way or public property while the motor is running or with the starting key in the ignition.

(6) Snowmobiles when operating on the paved portion of areas which are approved for the purpose of "residential access" and "access from lodging" by this Ordinance will operate on the right-hand side of the pavement, and follow all applicable rules of the road. Snowmobiles shall travel in a single file.

(7) All snowmobile operators operating within the Village for the purpose of "residential access" and "access from lodging" shall either be a registered snowmobile operator with the Village of West Salem or be immediately following a registered snowmobile operator at all times while operating within the Village of West Salem. To be a registered snowmobile operator with the Village of West Salem, one must complete and sign a registered snowmobile form supplied by the Village of West Salem and pay the fee, if any, set forth in Appendix "A" Fee Schedule. With the form, the registered operator will be given a complete copy of this Ordinance and acknowledge the receipt of the same and the fact that they have read the same. The registration shall be valid as long as the operator continues to reside at the residence listed on the registered snowmobile form and the terms of this snowmobile ordinance are not changed. If the registered snowmobile operator changes residences or this snowmobile ordinance is changed, the registered operator must complete and sign a new form and pay a

new fee, if any. Whenever the Village changes the snowmobile ordinance all registered snowmobile operators will be mailed notice at their listed address that they must re-register. The registered snowmobile form may be obtained and completed and fee paid, if any, at the West Salem Police Department located within the Village of West Salem Hall and at all public lodging facilities located within the Village. All approved lodging facilities must transmit new registrations and fees collected to the Village Hall within ten (10) business days of receipt.

(8) The Village Administrator or designee is directed and authorized to procure, erect, and maintain snowmobile signs indicating "Snowmobile Operators leaving State Trail must abide by Village of West Salem Ordinance No. 11.09."

(9) Snowmobiles will be equipped with a muffler, and if equipped with a "cutout", the muffler shall be used within Village.

**(C) Enforcement.**

(1) Uniform Citation for Highway Violations. The uniform traffic citation promulgated under Sec. 345.11, Wis. Stats., shall be used for violations of this Ordinance relating to highway use except as herein provided.

(2) Parking Violations. The special traffic citation described and defined in Sec. 6.13 of the Village traffic code shall be used for enforcement of violations of rules of the road relating to parking of vehicles adopted by reference in Sec. B of this Ordinance.

(3) Other Violations. All violations of this Ordinance not described in Subsection (1) or (2) shall be enforced in accordance with Sec. 66.12 and 66.114 and Ch. 299 of the Wisconsin Statutes. Stipulations of guilt or no contest may be made as provided in Sec. 66.12(1)(b), Wis. Stats., in substantially the form provided in the uniform traffic citation within ten (10) days of the date of the citation for such violation. Bail deposits may also be made under Sec. 66.12, Wis. Stats. Such deposits shall include a fee as set forth in Appendix "A" Fee Schedule, costs of prosecution, and penalty assessment.

(4) Police Department to Receive Stipulations and Penalties. Stipulations, forfeited penalties, and deposits for obtaining release from arrest authorized under this Ordinance may be accepted at the Village Police Department.

(5) The required forfeited penalties and deposits or bail not including costs and fees shall be as provided in the Deposit Schedule established by the Wisconsin Judicial Conference, pursuant to Sec. 345.26, Wis. Stats., or as provided in the schedule established by the Chief of Police and approved by the

Village Board.

(D) **Ordinance to be Filed.** The Administrator shall file a copy of this Ordinance upon its enactment and publication with the Wisconsin Department of Natural Resources. **(11.09 deleted and recreated 2/19/13)**

**11.10 Public Amusement Places, Processions, Parades, Runs, Walks, Bicycle Races, Marathons, Etc.**

(A) **Purpose.** The streets of West Salem are primarily for the use of vehicular travel. However, it is recognized there is a need to use these public streets for processions, parades, runs, walks, bicycle races, marathons, etc., which do not substantially interfere with the public's right to travel on such streets. This is intended to regulate and control non-vehicular use of streets and for protecting the general welfare and safety of the persons using the streets with the Village of West Salem. Said authority to regulate is contained Wis. Stat. Sec. 349.185 and related sections.

(B) **License Required.**

(1) No person shall exhibit within the Village of West Salem any circus, menagerie, carnival, or natural or artificial curiosity to which admission is gained, either directly or indirectly, by the payment of money, without having first obtained a license therefor.

(2) No person shall conduct any contest or theatrical performance of any nature, or give any concert, or athletic event, runs, walks, bicycle races, or marathons, of any kind, or any other public amusement to which admission is gained, either directly or indirectly, by the payment of money without having first obtained a license therefor.

(C) **Exemptions from License Requirement.** This Section shall not apply to events conducted by any civic, educational, charitable, patriotic, religious, or benevolent association. A license is not required for assembling or movement of a funeral procession or Military Convoy. Any parade, etc., sponsored by any agency of the Federal or State government, acting in its governmental capacity within the scope of its authority, shall be required to obtain a license; however, it shall be exempt from the special event fee and insurance requirements herein.

(D) **Application.** Application shall be made to the Village

Administrator on the form provided at least fifteen (15) days prior to the event to be licensed. The application shall include:

- (1) Name, age, residence, and telephone number of individual applicant;
- (2) Names, ages, residences, and telephone numbers of principle officers of a corporate applicant;
- (3) Name, address, and telephone number of event manager or person responsible for conducting the usage;
- (4) Any prior conviction of applicant or manager for violating a law regulating any public amusements;
- (5) Location and extent of previous experience of applicant or manager in providing public amusements;
- (6) Specific nature of public amusements for which the license is sought;
- (7) The date when the usage is to be conducted and its duration;
- (8) The assembly area, the starting point, the route to be traveled, and the termination point; and
- (9) Premises where the licensed event would occur, including:
  - a) street and number of all entrances;
  - b) amount of space to be used for said event;
  - c) owner's name and address;
- (10) Any other information that the Village Administrator shall require.

Upon payment of the required fee, the Administrator shall transmit the application to the Chief of Police, Public Works Director, and Building Inspector.

(E) **License Fees.** At the time of filing the Application, there shall be paid a fee as set forth in Appendix "A" Fee Schedule. Annual licenses shall expire on April 1 succeeding the issuance thereof.

(F) **Investigation.** The Chief of Police, Public Works Director, and Building Inspector shall conduct a thorough investigation of the applicant and the premises proposed to be licensed. They shall insure that the premises conform to all ordinances and regulations of the Village. They shall report their findings to the Village Administrator prior to the granting of any license.

**(G) Insurance Required.** Prior to issuance of a license by the Village Administrator, each permittee shall furnish evidence of a liability insurance policy in amounts of not less than \$500,000 per occurrence and \$1,000,000 annual aggregate, and shall be in force and effect at the time such usage is to take place. Said evidence of insurance shall include a certificate of insurance naming the Village of West Salem as additional insured in connection with said usage.

**(H) Bond Required.** In addition to the license fee prescribed herein, each licensee will be required to deposit at the time of payment of the license fee the sum in cash or surety bond as set forth in Appendix "A" Fee Schedule.

**(I) Expenses for Extra Ordinary Services.**

(1) In order to recoup the expenses for extra ordinary services of the Village of West Salem for the administration of this Ordinance, the Police Chief shall submit a bill for extra costs incurred for police protection and traffic control to the event licensee following the end of the event.

(2) The Public Works Director shall certify to the Village Administrator the adequacy of the cleanup of the streets of the Village and upon the grounds where the exhibition is held. If such cleanup shall be unsatisfactory, the Public Works Director shall request the Public Works Department to perform clean up. In order to recoup the expenses for such extra ordinary services of the Village of West Salem for refuse cleanup and proper disposal of all rubbish, trash, and every other type of material deposited on the streets of the Village or upon the grounds where the exhibition is held, the Public Works Director shall submit a bill for such services to the event licensee following the end of the event.

(3) The event licensee shall be responsible for reimbursing the Village of West Salem for any extra ordinary expenses billed to the licensee within thirty (30) days after each event. Failure by the licensee to pay any bill submitted by the Police Chief and/or the Public Works Director within such time shall result in the forfeiture of the cash or surety bond required in

11.10(H) above in the amount of the bill for the extra ordinary services.

(4) Nothing herein shall relieve any licensee from damage done to any street or other public ground.

**(J) Issuance.**

(1) The Administrator may, after approval of the license by the Village President, issue a license to the applicant. No license shall be refused except for a specific reason and for the protection of the public health, safety, welfare, and morals.

(2) No license shall be issued for any premises located within five hundred (500) feet of any three buildings used exclusively for residence purposes, except that this prohibition does not apply to either side of Leonard Street from its intersection with Elm Street to its intersection with Hamilton Street.

**(K) Grounds for Refusal or Revocation.** Grounds for refusal or revocation include, but are not limited to, the following:

(1) the proposed premises does not conform to all ordinances of the Village of West Salem; or

(2) the applicant has been convicted of a felony within five (5) years, or of a second offense against any provision of this Code, within two (2) years of the date of application.

(3) The Chief of Police, Village Administrator or Village President may, at any time, revoke any license granted herein for disorderly conduct on the premises or for a violation of any provision of this Code.

**(L) Transfer.** No license granted herein may be transferred as to location or licensee except after application to the Village Administrator who may grant or deny the transfer after an investigation. If approved, the Administrator shall endorse such transfer upon the license.

**(M) Posting.** Every licensee shall immediately post the license granted herein in a conspicuous place in the licensed premises and shall keep it posted while in force. Whenever a license be lost or destroyed without fault on part of licensee or agents, the Administrator may issue a duplicate license.

**(N) Compliance with Regulations.**



(1) Permittee. A permittee under this Section shall comply with all permit directions and conditions and with all applicable laws, ordinances, and other regulations of the State, County of La Crosse, and Village of West Salem.

(2) Participants. No person who leads or participates in any usage shall disobey, or encourage others to disobey, this Section after a law enforcement officer has directly and presently informed him or her of any of the provisions of this Section or the terms of the applicable usage permit.

(O) Special Permits. Those organizations exempt from license under 11.10(C) above are required to apply for a special permit to utilize a street or alley for an event. Such special permit applicant shall file an application as set forth in 11.10(D) above. This special permit shall be authorized by the Village Board and may require as a condition precedent the furnishing of evidence of insurance (and the amount), bonding (and the amount), and expense reimbursement as set forth in 11.10(I) above.

**(deleted and recreated 8/05/03)**

11.11 Penalty. Any person who shall violate any provision of this Chapter shall be subject to a penalty as provided in Chapter 13 of this Code. This Section shall not preclude the Village from maintaining any appropriate action to prevent or remove a violation of this Chapter.

11.12 Cigarettes & Tobacco. No person shall in any manner deal in cigarettes or tobacco products unless in compliance with Wisconsin Statutes 134.65 as amended from time to time. In addition, no person shall vend, sell, deal, or traffic in, or for the purpose of evading any law or ordinance, give away, any cigarettes or any tobacco products in any quantity whatever, or cause the same to be done without having procured a license as provided in this Code, nor without complying with all the provisions of this Code, and all State Statutes, County Ordinances, local ordinances, and regulations applicable thereto.

A separate license shall be required for each stand, place, room, or enclosure where cigarettes or any tobacco products are kept, sold, or offered for sale. Application for a license to sell or deal in cigarettes or any tobacco products shall be made in writing on the form prescribed by law and shall be filed with the Village

Administrator not less than fifteen (15) days prior to the approval and granting of such license by the Village Board. Applications not received by the Village Administrator fifteen (15) days prior to the granting of such license will be required to pay a late fee as set forth in Appendix "A" Fee Schedule per license application. Said application shall be accompanied by the required license application fee per location where cigarettes or any tobacco products are kept, sold, or offered for sale as set forth in Appendix "A" Fee Schedule. All license and late fees set forth herein may be amended from time to time by Resolution of the Village Board. **(Created 12/15/98 and updated 10/18/05, 10/06)**

**11.13 Hotel and Motel Room Tax.**

(A) The following definitions shall be applicable in this Section:

(1) Commission shall mean an entity created by the Village of West Salem or by two (2) or more municipalities in a zone, to coordinate tourism promotion and development for the zone.

(2) District means a special purpose district created under this Section.

(3) Hotel or Motel shall mean a building or group of buildings in which the public may obtain accommodations for a consideration, including, without limitation, such establishments as inns, motels, tourist homes, tourist houses or courts, lodging houses, rooming houses, bed and breakfasts, summer camps, apartment motels, resort lodges and cabins, and any other building or group of buildings in which accommodations are available to the public, irrespective of whether membership is required for use of the accommodations, except accommodations rented for a continuous period of more than one (1) month and accommodations furnished by any hospitals, sanitariums, or nursing homes, or by corporations or associations organized

11.13(A)(3)

and operated exclusively for religious, charitable, or educational purposes provided that no part of the net earnings of such corporations and associations inures to the benefit of any private shareholder or individual.

(4) Sponsoring Municipality shall mean a city, village, or town that creates a district.

(5) Tourism means travel for recreation, business, or

educational purposes.

(6) Tourism Entity means a nonprofit organization that came into existence before January 1, 1992, spends at least fifty-one (51%) percent of its revenues on tourism promotion and tourism development, and provides destination marketing staff and services for the tourism industry in a municipality, except that if no such organization exists in a municipality on January 1, 2016, a municipality may contract with such an organization if one is created in the municipality.

(7) Tourism Promotion and Tourism Development means any of the following that are significantly used by transient tourists and reasonably likely to generate paid overnight stays at more than one establishment on which a room tax may be imposed, that are owned by different persons and located within a municipality in which a tax under this Section is in effect; or, if the municipality has only one such establishment, reasonably likely to generate paid overnight stays in that establishment:

(a) marketing projects, including advertising media buys, creation and distribution of printed or electronic promotional tourist materials, or efforts to recruit conventions, sporting events, or motorcoach groups;

(b) transient tourist informational services; and

(c) tangible municipal development, including a convention center.

(8) Transient is any person residing for a continuous period of less than one (1) month in a hotel, motel, or other furnished accommodations available to the public.

(9) Zone means an area made up of two (2) or more municipalities that, those municipalities agree, is a single destination as perceived by the traveling public.

**(B) Tax Imposed.** Pursuant to Sec. 66.0615, Wis. Stats., a tax is hereby imposed on the privilege and service of furnishing, at retail, rooms or lodging to transients by hotelkeepers, motel operators, and other persons furnishing accommodations that are available to the public irrespective of whether membership is required for the use of the accommodations. Such tax shall be at a rate as set forth in Appendix "A" Fee Schedule, but in no case shall the tax imposed exceed eight (8%) percent. Such tax shall not be subject to the selective sales tax imposed by Sec. 77.52(2)(a)(1), Wis. Stats.

**(C) Purpose of Tax.** The tax imposed in Section 11.13(B) is

hereby designated for use on tourism promotion and tourism development as established by the West Salem Area Room Tax Commission.

(D) **Clerk to Administer**. The Village Administrator shall administer this Section. The tax imposed for each calendar quarter is due and payable on the last day of the month next succeeding the calendar quarter for which imposed. A return shall be filed with the Village Administrator by those furnishing at retail such rooms and lodging, on or before the same date on which such tax is due and payable. Such return shall show the gross receipts of the preceding calendar quarter from such retail furnishing of rooms or lodging, the amount of taxes imposed for such period and such other information as the Village Administrator deems necessary. The return shall be accompanied by a copy of the Wisconsin Sales Tax Return filed by the person filing the room tax return for the same period of time set forth in the room tax return. Every person required to file such quarterly return shall, with his or her first return, elect to file an annual calendar year or fiscal year return. Such annual return shall be filed within ninety (90) days of the close of each such calendar or fiscal year. The annual return shall summarize the quarterly returns, reconcile and adjust for errors in the quarterly returns, and shall contain certain such additional information as the Village Administrator requires. Such annual returns shall be made on forms as prescribed by the Village Administrator. The person required to file a return shall sign all such returns or his or her duly authorized agent, but need not be verified by oath. The Village Administrator may, for good cause, extend the time for filing any return, but in no event longer than one (1) month from the filing date.

(E) **Administration Fee**. The Village Administrator shall act as the collecting official. As such collecting official, the Village Administrator shall retain a percentage as set forth in Appendix "A" Fee Schedule as and for administration fees.

(F) **Tax Collected**. A tax imposed under this Section shall be paid to the Village Administrator and, with regard to any tax revenue that may not be retained by the Village, shall be forwarded to the West Salem Area Room Tax Commission.

(G) **Permit Required and Fee**. Every person furnishing rooms or lodging under 11.13(B) shall file with the Village Administrator

an application for a permit for each place of business. Every application for a permit shall be made upon a form prescribed by the Village Administrator and shall set forth the name under which the applicant transacts or intends to transact business, the location of the place of business, and such other information as the Village Administrator requires. The owner shall sign the application if a sole proprietor, and, if not a sole proprietor, by the person authorized to act on behalf of such sellers. At the time of making an application, the applicant shall pay to the Village Administrator a fee as set forth in Appendix "A" Fee Schedule for each permit.

**(H) Issuance and Display of Permit.** After compliance with 11.13(F) and 11.13(L) by the applicant, the Village Administrator shall grant and issue to each applicant a separate permit for each place of business within the Village. Such permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall, at all times, be conspicuously displayed at the place for which issued.

**(I) Revocation of Permit and Fee for Reissuance or Renewal.** Whenever any person fails to comply with this Section, the Village Administrator may, upon ten (10) days' notification and after affording such person the opportunity to show cause why his or her permit should not be revoked, revoke or suspend any or all of the permits held by such person. The Village Administrator shall give to such person written notice of the suspension or revocation of any of his or her permits. The Village Administrator shall not issue a new permit after the revocation of a permit unless he or she is satisfied that the former holder of the permit will comply with the provisions of this Section. A fee as set forth in Appendix "A" Fee Schedule shall be imposed for the renewal or issuance of a permit, which has been previously suspended or revoked.

**(J) Liability on Sale of Business.** If any person liable for any amount of tax under this Section sells out his or her business or stock of goods or quits the business, his or her successors or assigns shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the Village Administrator that it has been paid or a certificate stating that no amount is due. If a person subject to the tax imposed by this Section fails to withhold such amount of tax from the purchase price as required, he or she shall become personally liable for payment of the amount required to be withheld by him or

her to the extent of the price of the accommodations valued in money.

**(K) Audits.** The Village Administrator may, by office or field audit, determine the tax required to be paid to the Village or the refund due to any person under this Section. This determination may be made upon the basis of the facts contained in the return being audited, or on the basis of any of the information within the Village Administrator's possession. One or more such office audit determinations may be made of the amount due for anyone or for more than one period. The Village Administrator is authorized to examine and inspect the books, records, memoranda, and property of any person in order to verify the tax liability of that person or of another person. Nothing herein shall prevent the Village Administrator from making a determination of tax at any time.

**(L) Failure to File Return.**

(1) If any person fails to file a return as required by this Section, the Village Administrator shall make an estimate of the amount of the gross receipts under 11.13(B). Such estimate shall be made for the period for which such person failed to make a return and shall be based upon any information which is in the Village Administrator's possession or may come into his or her possession. On the basis of this estimate, the Village Administrator shall compute and determine the amount required to be paid to the Village, adding to the sum thus arrived at a penalty as set forth in Appendix "A" Fee Schedule. One or more determinations may be made for one or more than one period.

(2) All unpaid taxes under this Section shall bear interest at a percentage rate as set forth in Appendix "A" Fee Schedule from the due date of the return until the first day of the month in which the tax is due or deposited with the Village Administrator.

(3) Delinquent tax returns shall be subject to a late filing fee as set forth in Appendix "A" Fee Schedule. The tax imposed by this Section shall become delinquent if not paid.

(a) In the case of a timely filed return, within thirty (30) days after the due date of the return, or within thirty (30) days after the expiration of an extension period if one has been granted.

(b) In the case of no return filed or a return filed late, by the due date of the return.

(4) If due to negligence no return is filed, or a return is filed late, or an incorrect return is filed, the entire

tax finally determined shall be subject to a penalty as set forth in Appendix "A" Fee Schedule of the tax exclusive of interest or other penalties. If a person fails to file a return when due or files a false or fraudulent return with the intent in either case to defeat or evade the tax imposed by this Section, a penalty percentage rate as set forth in Appendix "A" Fee Schedule shall be added to the tax required to be paid, exclusive of interest and other penalties.

**(M) Bond.** In order to protect the revenue of the Village, the Village Administrator may require any person liable for the tax imposed by this Section to place with him or her, before or after a permit is issued, such security, not in excess of Five Thousand (\$5,000) Dollars as the Village Administrator determines. If any taxpayer fails or refuses to place such security, the Village Administrator may refuse or revoke such permit. If any taxpayer is delinquent in the amount imposed by this Section, the Village Administrator may, upon ten (10) days' notice, recover the taxes, interest, and penalties from the security placed with the Village Administrator by such taxpayer. The Village shall pay no interest to any person for the deposit of such security.

**(N) Records.** Every person liable for the tax imposed by this Section shall keep or cause to be kept such records, receipts, invoices, or other pertinent papers in such form as the Village Administrator requires.

**(O) Returns Confidential.**

(1) All tax returns, schedules, exhibits, writings, or audit reports relating to such returns on file with the Village Administrator may divulge their contents to the following and no others:

(a) The person who filed the return;

(b) Officers, agents, or employees of the United States Internal Revenue Service or the State of Wisconsin Department of Revenue;

(c) Officers, employees, or agents of the Village Administrator; and

(d) Such other public officials of the Village of West Salem when deemed necessary.

(2) No person having administrative duty under this Section shall make known in any manner the business affairs, operations, or information obtained by an investigation of

records of any person on whom a tax imposed by this Section or the amount or source of income, profit, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof to be seen or examined by any person, except as provided herein.

(P) **Violations and Penalties.** Any person who is subject to the tax imposed by this Section who fails to obtain a permit as required in 11.13(F) or who fails or refuses to permit the inspection of his or her records by the Village Administrator after such inspection has been duly requested by the Village Administrator, or who fails to file a return as provided in this Section, or who violates any other provision of this Section shall, upon conviction thereof and in addition to any other penalty imposed herein, forfeit an amount as set forth in Appendix "A" Fee Schedule plus the costs of prosecution and, in default of payment of such forfeiture, be confined in the La Crosse County Jail until payment of such forfeiture and costs of prosecution, but not exceeding ninety (90) days for each violation. Each day or portion thereof that such violation continues is hereby deemed to constitute a separate offense. Forfeiture amounts are subject to Village Board annual review and approval and may be changed from time to time by Village Board Resolution.

(Q) **Room Tax Expenditures.**

(1) The West Salem Area Room Tax Commission and/or a zone as defined by 11.13(A)(1) shall spend at least the percentage amount of collected room tax as set forth in Wis. Stat. Sec. 66.0615 on tourism promotion and tourism development. Said room tax shall either be forwarded to the West Salem Area Room Tax Commission or zone, if so created.

(2) The West Salem Area Room Tax Commission shall report annually to the Village Administrator from which it receives room tax revenue the purpose for which the revenues were spent.

(3) The Commission may not use any of the room tax revenue to construct or develop a lodging facility.

(R) **Certification and Reporting.** Annually, on or before May 1, on a form created and provided by the Wisconsin Department of Revenue, the Village Administrator shall certify and report to the Department of Revenue, all of the following:

(1) The amount of room tax revenue collected and the room tax rate imposed in the previous year.



(2) A detailed accounting of the amounts of such revenue that were forwarded in the previous year for tourism promotion and tourism development, specifying the commission or tourism entity that received the revenue. The detailed accounting shall include expenditures of at least One Thousand (\$1,000) Dollars made by a commission or tourism entity.

(3) A list of each member of the Commission and each member of the governing body of a tourism entity to which the Village Administrator forwarded room tax revenue in the previous year, and the name of the business entity the member owns, operates, or is employed by, if any.

The Wisconsin Department of Revenue shall collect the reports described herein and shall make the reports available to the public. **(Created by Ord. 469 12/1/2015)**

#### **11.14 Adult-Oriented Establishments.**

(A) **Intent.** The Village Board intends to provide a reasonable regulation of the location of adult-oriented establishments that will provide for the protection of the image of the community and its property values and protect the residents of the community from the adverse secondary effects of an adult-oriented establishment, and still providing to those who desire to frequent adult-oriented establishments, such an opportunity in areas within the Village which are appropriate for a location of adult-oriented establishments.

(B) **Findings.** Based on evidence concerning the adverse secondary effects of adult-oriented establishments on the community in reports made available to the Village Board, and on the holdings and findings in various court cases, studies, and summaries of studies, the Village Board finds that:

- (1) Crime statistics show that all types of crimes, especially sex-related crimes, occur more frequently in neighborhoods where adult-oriented establishments are located.
- (2) Studies of the relationship between adult-oriented establishments and neighborhood property values have found a negative impact on both residential and commercial property values.
- (3) Adult-oriented establishments may contribute to an increased public health risk by the spread of sexually transmitted diseases.
- (4) There is an increase in the potential for infiltration by organized crime into businesses

operating adult-oriented establishments for the purpose of unlawful conduct.

- (5) The consumption of alcoholic beverages on the premises of an adult-oriented establishment exacerbates the deleterious secondary effects of such businesses on the community.

(C) **Definitions.** The terms used herein shall be defined as follows:

(1) Adult Arcade. Any place to which the public is permitted or invited for any form of consideration, where still or motion picture machines, computer screens, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

(2) 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 person licensed by the State of Wisconsin and which establishment provides to its patrons an opportunity for engaging in "specified sexual activities."

(3) Adult Body Painting Studio. An establishment or business wherein patrons are afforded an opportunity to paint images on a body, which is in a "state of nudity". For purposes of this Chapter, the adult body painting studio shall not be deemed to include a tattoo parlor.

(4) Adult Cabaret. A nightclub, bar, restaurant, or similar commercial establishment at which on twenty (20) or more days in any twelve (12) month period, persons appear in a "state of nudity"; or live performances occur which are characterized by the exposure of "specified sexual activities" or "specified anatomical areas"; also films, motion pictures, video cassettes, slides, or other photographic or digital reproductions are shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(5) Adult Entertainment. Any exhibition of any motion picture, videocassette, DVD, live performance, display, or dance of any type, which has as its dominant theme or

is distinguished or characterized by an emphasis on any actual or simulated "specified sexual activities" or "specified anatomical area", the removal of articles of clothing or partial or total nude appearance.

(6) Adult Entertainment Store. An establishment, including in its stock in trade for sale, rent, lease, inspection or viewing books, films, video cassettes, DVD's, novelties, magazines, or other periodicals, which have as their dominant theme or are describing or relating to "specified sexual activities" or "specified anatomical area."

(7) Adult Mini-Theater. An enclosed building with a capacity of less than fifty (50) persons used for presenting adult entertainment having as its dominant theme or distinguished or characterized by an emphasis on matters depicting, describing, or relating to "specified sexual activities" or "specified anatomical area."

(8) Adult Motel. A hotel, motel or similar commercial establishment, which offers accommodations to the public for any form of consideration; provides patrons with closed-circuit televising transmissions, films, motion pictures, video cassettes, DVD'S, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical area"; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or offers a sleeping room for rent for a period of time that is less than ten (10) hours; or 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.

(9) Adult-Oriented Establishments. Includes, but not limited to, adult entertainment stores, adult arcades, adult bath houses, adult body painting studios, adult motels, adult theaters, adult mini-theaters, adult cabarets, sexual encounter center, escort agency, escort, nude model studio, and any other premises to which public patrons or members are invited or admitted and which are physically arranged so as to provide booths, cubicles, rooms, compartments, or stalls separate from the common areas of the premises for the purpose of viewing adult entertainment, whether or not such adult entertainment is held, conducted, operated or

maintained for commercial gain.

(10) Adult Theater. An enclosed building with a capacity of fifty (50) or more persons used for presenting adult entertainment having as its dominant theme, distinguished, or characterized by an emphasis on matters depicting, describing, or relating to "specified sexual activities" or "specified anatomical area."

(11) Booth, Room, or Cubicle. Means such enclosures as are specifically offered to the public or members of a "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, are not open to any persons other than employees, nor shall this definition apply to hotels, motels, or other similar establishments licensed by the State of Wisconsin, pursuant to Chapter 50, Wis. Stats.

(12) Escort. Means a person whom, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a strip-tease for another person.

(13) Escort Agency. Person or business association who furnishes, offers to furnish, or advertises to furnish "escorts" as one of its business purposes for a fee, tip, or other consideration.

(14) Nude Model Studio. Means any place where a person appears "semi-nude", in a "state of nudity" or who displays "specified anatomical areas" and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. "Nude Model Studio" shall not include a proprietary school licensed by the State of Wisconsin or a college, junior college or university supported entirely or in part by public taxation; a private college or university which

maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or in a structure; it must have no sign visible from the exterior of the structure and no other advertising that indicates a "nude" or "semi-nude" person is available for viewing and where in order to participate in a class a student must enroll at least three days in advance of the class and where no more than one "nude" or "semi-nude" model is on the premises at any one time.

(15) Nudity or a State of Nudity. Means the showing of the human male or female genitals, vulva, anus, anal cleft or cleavage with less than fully opaque covering, the showing of the female breast with less than fully opaque covering of the entire nipple and areola or the showing of the covered male genitals in a discernibly turgid state.

(16) Operator. Any person, partnership, corporation, limited liability company, limited liability partnership, association, or other entity or organization operating, conducting, maintaining, or owning any adult-oriented establishment.

(17) Sexual Encounter Center. Means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration: physical contact in the form of wrestling or tumbling between persons of the opposite sex or activities between males and females persons or the same sex when one or more of the persons is in a "state of nudity" or "semi-nude".

(18) Specified Anatomical Area. Less than completely and opaquely covered human male or female genitals, buttocks and female breast below a point immediately above the top of the areola. Human male genitals in a discernable turgid or erect state, even if opaquely covered.

(19) Specified Sexual Activities. Simulated or actual showing of human genitals in a state of sexual stimulation or arousal. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio, or cunnilingus. Fondling or erotic touching of human genitals, buttocks, or female breast.

**(D) Adult-Oriented Establishment License.**

(1) No person may engage in, conduct, or carry on the

operation or maintenance of an adult-oriented establishment without first obtaining a valid adult-oriented establishment license for each adult-oriented establishment.

(2) A license may be issued only for one (1) adult-oriented establishment located at a fixed and certain place. Any person desiring to operate more than one (1) adult-oriented establishment must have a license for each adult-oriented establishment.

(3) Any adult-oriented establishment existing at the time of the passage of this Section must submit an application for a license within sixty (60) days of the passage of this Section.

**(E) Application for Adult-Oriented Establishment License.**

(1) Any person desiring an adult-oriented establishment license shall pay the required fee as set forth in Appendix "A" Fee Schedule to defray the costs of administration and investigation of the application.

(2) Any person desiring an adult-oriented establishment license shall file a written application with the Village Administrator on a form provided by the Administrator's office in compliance with the following. The information provided to the Administrator shall be given under oath. For applicants other than individuals, the following rules must also be complied with:

(a) Corporations. If the applicant is a corporation, the name of the corporation shall be set forth exactly as set forth in its articles of incorporation, together with the date and state of incorporation, the names and residence addresses to each of its officers, directors and each stockholder of the corporation. All officers, directors, and stockholders of the corporation shall also verify the application. If one or more of the stockholders is a corporation, limited liability company or limited liability partnership, the provisions of the Section pertaining to a corporate application shall apply to a corporate stockholder, the provisions relating to the limited liability company shall relate to the limited liability company stockholder, and the provisions relating to the limited liability partnership shall relate to the limited liability partnership stockholder.

(b) Partnership. If the applicant is a partnership, general or limited, the application shall set forth the name of the partnership, the name and residence address of each of the partners, including limited partners, and be verified by each partner. If one or more of the partners is a corporation, limited liability company or limited liability partnership, the provisions of the section pertaining to a corporate application shall apply to a corporate partner, the provisions relating to the limited liability company shall relate to the limited liability company partner, and the provisions relating to the limited liability partnership shall relate to the limited liability partnership partner.

(c) Limited Liability Company. If the applicant is a limited liability company "LLC", the name of the limited liability company shall be set forth exactly as set forth in its articles of organization, together with the date and state of organization, the names and residence addresses to each of its members holding ownership of the limited liability company and the names and addresses of all managers in a manager-managed LLC. If the entity is member managed, all members shall verify the application. If the entity is manager-managed, all managers and members shall verify the application. The entity must file with its application and keep on file with the Village a current copy of its operating agreement. If one or more of the members is a corporation, limited liability company or limited liability partnership, the provisions of the Section pertaining to a corporate application shall apply to a corporate member, the provisions relating to the limited liability company shall relate to the limited liability company member, and the provisions relating to the limited liability partnership shall relate to the limited liability partnership member.

(d) Limited Liability Partnership. If the applicant is a limited liability partnership "LLP", the name of the limited liability partnership shall be set forth exactly as set forth in its registration statement, together with the date and state of registration, the names and residence addresses to each of its partners holding ownership of the limited liability partnership and the names and addresses of

all managing agents. All partners and managing agents shall verify the application. The entity must file with its application and keep on file with the Village a current copy of its partnership agreement if it has one and if not a statement as to authority of any one partner to act for the entity. If one or more of the partners is a corporation, limited liability company or limited liability partnership, the provisions of the Section pertaining to a corporate application shall apply to a corporate partner, the provisions relating to the limited liability company shall relate to the limited liability company partner, and the provisions relating to the limited liability partnership shall relate to the limited liability partnership partner.

(e) Others. If the applicant is an entity not described in (a)-(d), the application shall set forth the true full name and physical address of all of the beneficial owners of the entity and managing agents for the entity. If one or more of the beneficial owners or managing agents is a corporation, limited liability company, or limited liability partnership, the provisions of the Section pertaining to a corporate application shall apply to a corporate owner or agent, the provisions relating to the limited liability company shall relate to the limited liability company owner or agent, and the provisions relating to the limited liability partnership shall relate to the limited liability partnership owner or agent.

(3) The application shall also set forth the proposed place of business of the adult-oriented establishment by business address, including suite number, and not by post office box, and shall contain a description of the nature and scope of the proposed business operation. In addition, the following information shall be furnished concerning the applicant if an individual, and all other persons required to verify the application:

(a) The previous residence address, if any, for a period of three (3) years immediately prior to the date of application and the dates of such residence.

(b) Written proof that the individual is at least eighteen (18) years of age.



(c) A complete set of fingerprints.

(d) The business, occupation or employment history for three (3) years immediately preceding the date of application, including, but not limited to, whether such a person previously operated under any permit or license in another municipality in this or another state and whether any such permit or license had ever been suspended or revoked.

(e) All convictions in any state or federal court within the past five (5) years, including municipal ordinance violations, exclusive of traffic violations, with a brief statement of the nature of the convictions and the jurisdiction in which the convictions occurred.

(f) All pending criminal charges in any state or federal court, with a brief statement of the nature of the pending charges and the jurisdiction in which the charges are pending.

(g) The names of persons who will have custody of the business records, at the business location.

(h) The name and address of the person who will be the agent for service of process.

(i) Such other information relating to the application as may be required by Village Board or Police Department.

(4) The application shall include the proposed hours of operation and a detailed floor plan.

(5) The Village Administrator shall notify the Chief of Police and the Building Inspector of any adult-oriented establishment license application, and these officials shall inspect each such application and the premises to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances, and laws applicable thereto. These officials shall furnish to the Planning Commission, in writing, the information derived from such investigation and a statement as to whether the applicant and the premises meet the requirements of the department for whom the officer is certifying within five (5) business days of the receipt of notice from the Village Administrator. Upon receiving the information from said officials, the Planning Commission shall,

within ten (10) days, file its written recommendation with the Village Board.

(6) Upon receiving a recommendation of the Planning Commission, within thirty (30) days of receiving an application for a license, the Village Board shall grant with conditions or deny a license to the applicant. The Village Administrator shall notify the applicant whether the application is granted or denied.

(7) Whenever an application is denied, the Village Administrator shall advise the applicant, in writing, of the reasons for such action. If the applicant requests a hearing within ten (10) days of the receipt of notification of denial, a public hearing shall be held within ten (10) days thereafter before the Village Board.

(8) Failure or refusal of the applicant to give any information relevant to the application, failure or refusal to appear at any reasonable time and place for examination under oath regarding said application, or refusal to submit to or cooperate with regard to any information required by this Section shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial.

**(F) Standards Issuance of an Adult-Oriented Establishment License.**

The Village Board shall issue an adult-oriented establishment license if, upon recommendation by the Planning Commission, it finds that:

(1) The required fee has been paid.

(2) The application conforms in all respects to this Section.

(3) The location of the adult-oriented establishment is neither within one thousand (1,000) feet of any such church, synagogue, building of mass worship, school building, park, nor within four (400) hundred feet of any Residential District.

(4) The applicant has not knowingly made a significant misstatement in the application.

(5) The applicant has supplied all the information required under all above and the information requested by the Village Board or Police regarding the investigation of his or her application.

(6) The adult-oriented establishment, as proposed by the applicant, would comply with all applicable laws,

including, but not limited to, the Village's Building and Zoning Codes.

(7) The applicant has not had an adult-oriented establishment license, permit, other similar license, or permit revoked or suspended in this State or any other state within thirty (30) years prior to the date of application.

(8) The applicant, if an individual; and all others verifying the application as required herein, have not at the time of application, have pending any criminal charge for, or within five (5) years prior to the date of application has not been convicted of, any offense involving dishonesty, fraud, deceit, robbery, the use or threatened use of force, violence upon the person of another, or sexual immorality under 948 Wis. Stats., as amended, or the laws of another state similar in nature to said 948, Wis. Stats. or other offenses, subject to 111.335, Wis. Stats., as mentioned.

(9) The applicant, if an entity, is licensed to do business and is in good standing in the State and has on file with the State a Registered Agent residing within the State.

**(G) Display of Adult-Oriented Establishment License.** The adult-oriented establishment license shall be displayed in a conspicuous place in the adult-oriented establishment.

**(H) Restrictions on Entity Licenses.** Any entity holding an adult-oriented establishment license under this Section shall report to the Village Administrator, in writing, within fifteen (15) days of the event described herein, any of the following:

- (1) Any change of officers of the corporation;
- (2) Any change in the membership of the board of directors of the corporation;
- (3) Any change in partners, general or limited;
- (4) Any change in members or managing member;
- (5) Any change in registered agents; or
- (6) Any change in shareholders effecting five (5%) percent beneficial ownership.

**(I) Sale or Transfer.** Upon the sale or transfer of any interest in an adult-oriented establishment, the license shall be void. Any person desiring to continue to operate an adult-oriented establishment following sale or transfer shall apply for a license.

**(J) Responsibilities of the Operator of an Adult-Oriented Establishment.**

(1) 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.

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

(3) The operator shall maintain the adult-oriented establishment in a clean and sanitary manner at all times.

(4) The operator shall maintain at least ten (10') foot candles of light in the public portion of the adult-oriented establishment, including aisles, at all times, unless a lesser level illumination in the aisles shall be necessary to enable a patron to view the adult entertainment in a booth, room, or cubicle adjoining an aisle. A lesser amount of illumination may be maintained in such aisles, provided, however, at no time shall there be less than one (1) three (3') foot candle of illumination in said aisles, as measured from the floor.

(5) No alcohol beverage may be served or permitted on the premises.

(6) No sexual activity of any kind shall be permitted on the premises.

(7) The operator shall insure compliance of the adult-oriented establishment and its patrons with the provisions of this Section.

(8) No person licensed as an adult-oriented establishment may, in any manner, advertise its establishment as licensed by the Village.

(9) No person, employee, or patron shall be permitted to have any physical contact with any entertainer on the premises during any performance. All performances shall only occur on stage or table that is elevated at least eighteen (18") inches above the immediate floor level. To prevent actual physical contact between an entertainer and any other person, employee, or patron all performances shall not be

less than five (5') feet from any area occupied by any patron. Persons, employees and patrons shall not have any physical contact with, and shall not be less than five (5') feet from, any entertainer during the payment of a tip or gratuity.

**(K) Physical Layout of Adult-Oriented Establishment.** Any adult-oriented establishment, having available for customers, patrons, or members, any booth, room, or cubicle for the private viewing of any adult entertainment must comply with the following requirements:

(1) 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.

(2) Every booth, room, or cubicle shall meet the following construction requirements:

(a) Each booth, room, or cubicle shall be separated from adjacent booths, rooms, or cubicles and any non-public areas by a wall.

(b) Each booth or cubicle shall have at least one side totally open to a lighted public aisle so that there is an unobstructed view at all times of anyone occupying the same.

(c) All walls shall be solid and without any openings, extended from the floor to a height of not less than six (6) feet and be light colored, nonabsorbent, smooth textured and easily cleanable.

(d) The floor must be light colored, nonabsorbent, smooth textured and easily cleanable.

(e) 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.

(3) One (1) individual shall occupy a booth, room, or cubicle at any time. No occupant shall engage in any type of sexual activity.

**(L) Renewal.**

(1) Every license issued pursuant this Section shall terminate at the expiration of one (1) year from the date of issuance unless sooner revoked and must be renewed before operation is allowed in the following year. All applications for the renewal of adult-oriented establishments licenses issued by the Village shall be filed with the Village Administrator's office on a form to be provided by the

Administrator no later than sixty (60) days prior to the expiration of the license. The renewal application shall contain such information and data, given under oath or affirmation, as is required for an application for a new license. Applications to renew licenses shall be processed by the Village in the same fashion as new applications. No license shall be renewed without a re-inspection of the premises as required under (3) (e) above.

(2) A license renewal fee as set forth in Appendix "A" Fee Schedule shall be submitted with the renewal application. In addition to the renewal fee, a late penalty as set forth in Appendix "A" Fee Schedule shall be assessed against any applicant who files for renewal less than sixty (60) days before the license expires. If the application is denied, one-half (½) of the total fees collected shall be returned.

**(M) Suspension or Revocation.**

(1) Any adult-oriented establishment license may be suspended for not more than ninety (90) days or revoked by Village Board for any of the following reasons:

(a) Any of the grounds that would warrant the denial of the original application for the license.

(b) Discovery that false, misleading information, or data was given on any application or material facts were omitted from any application.

(c) The operator or any employee of the operator violates any provision of this Section, any rules or, regulations adopted by the Village Board pursuant to this Section; provided, however, that in the case of the first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty (30) days if the Village Board shall find that the operator had no actual or constructive knowledge of such violation and could not, by the exercise of due diligence, have had such actual or constructive knowledge.

(d) The operator becomes ineligible to obtain a license permit.

(e) Any cost or fee required to be paid by this Section is not paid.

(f) Any intoxicating liquor or fermented malt beverage is served or consumed on the premises of the adult-oriented establishment.

(g) The establishment is operated outside of operation hours established by the Village Board.

(h) There is any substantial change in the floor plan approved by the Village Board without the approval of the Board.

(2) An adult-oriented establishment license may be suspended or revoked after notice and hearing before the Village Board to determine if grounds for such suspension or revocation exist. Notice of the hearing shall be in writing and may be served by certified mail addressed to the licensee at the current address of the licensee on file with the Village Administrator's office. The notice shall be served at least ten (10) days prior to date of the hearing. The notice shall state the grounds of the complaint against the licensee and shall designate the time and place where the hearing will be held.

(3) Any operator whose license is revoked shall not be eligible to receive a license for one (1) year from the date of revocation. No location or premises for which a license had been issued shall be used as an adult-oriented establishment for six (6) months from the date of revocation of the license.

**(N) Fees and Penalties.**

(1) Application. All persons, firms, or corporations performing work, which, by this Code required the issuances of a permit or approval, shall pay a fee for such action to the Village Administrator to help defray the administration, investigation, advertising, and processing of the application and review. The fees shall be depicted on a resolution, on file with the Village Administrator.

(2) Enforcement and Penalties. Any building or structure hereinafter erected, moved, placed, or structurally altered or any use hereinafter established in violation of the provisions of this Code by any person or entity (including building contractors, or their agent) shall be deemed an unlawful structure or use. The Village Board may direct the Village Attorney to bring an action to enjoin, remove, or vacate any use, erection, moving, alteration, or placement of any building or use in violation of this Code. Any person who violates this Code shall forfeit a sum as set forth by Appendix "A" Fee Schedule. Each day of violation shall constitute a separate offense.

**(Created 01/04/07)**

**11.15 Golf Carts.** The purpose of this Ordinance is to provide a means of travel that is convenient and conserves resources and protects the environment. Golf carts, if properly used, are an effective means to travel for short distances with the Village. However, to ensure the public safety and welfare, the operation of golf carts must not only comply with normal regulations regarding vehicles, operators and passengers. This Ordinance establishes the basic, minimum standards of care to be used by the operators of golf carts on public roads and streets.

(A) **Definition.** A golf cart is defined as a vehicle designed and manufactured for operation on a golf course and that is not capable of exceeding twenty (20) miles per hour on a paved level surface and which is equipped with operational headlight and taillight and a reflective Wisconsin Department of Transportation-approved slow-moving vehicle sign on the back of the cart.

(B) **Operating Restrictions.**

(1) Pursuant to Wis. Stat. Sec. 349.18(1m)(a), golf cart usage is only allowed on Village streets and County roads located within the Village limits with a speed limit of twenty-five (25) miles per hour or lower.

(2) No golf cart may be operated on or cross State Highway 16 at any location.

(3) No golf cart may operate on or cross any Village Street or County road located within the Village limits, in an area on the street or road where speed limit exceeds twenty-five (25) miles per hour.

(4) All Wisconsin State Laws requiring operators to have a valid driver license or permit and Wisconsin Statutes Chapter 346 "Rules of the Road" and Ordinances adopted by the Village of West Salem applicable to automobiles, shall be adhered to. In particular, the operator must be sober, and open alcohol is not allowed on the cart.

(5) No golf cart shall be operated upon public sidewalks, pedestrian walkways, bike paths, any grassy area outside the paved roadway, any Village parkland, or any multi-use paths without specific Village approval, and if as part of a special event approval of the event sponsor. Golf carts shall not be operated upon that portion of the street right-of-way located between the curb line and the sidewalk, except for the purpose of crossing the same to a public street upon which operation is authorized.

(C) **Severability.** If any provision of this Ordinance or its application to any person or circumstances is held invalid, the



invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

(D) **Disclaimer and Liability.** Golf carts are not designed for nor manufactured to be used on public streets and obtaining liability coverage for said usage may be difficult or impossible. The Village of West Salem neither advocates nor endorses the golf cart as a safe means of travel on public streets. The Village in no way shall be liable for accidents, injuries, or death involving the operation of golf carts. Any person who owns, operates, or rides upon a golf cart on a public street within the Village of West Salem does so at his or her own risk and peril. The operation of a golf cart on public streets as authorized by this ordinance requires you to meet the Wisconsin financial responsibility requirement of Chapter 344 of the Wisconsin Statutes as the golf cart is then treated as a motor vehicle. It is highly recommended to obtain liability insurance for such golf cart usage so as to meet the Chapter 344 requirements, but the availability of liability insurance for usage on public streets is limited. Make sure you read and understand your policy to determine if you really have coverage for operation on public streets, as a failure to meet the requirements of Chapter 344 can mean the loss of driving privileges until all damages caused are paid in full.

(E) **Violations and Penalties.** Any person that violates subsections B(2),(3)or(5) this Ordinance shall pay a forfeiture of not less than One Hundred (\$250.00) Dollars nor more than One Thousand (\$1,000.00) Dollars or such other amount as shall be set forth in the West Salem Fee Schedule adopted by the Village Board from time to time and annually, and including the imposition of larger penalties for multiple or repeat offenses within a specified period time.