

**CHAPTER 25**

**LICENSES AND PERMITS**

|                   |   |    |
|-------------------|---|----|
| <b>Sec. 25.01</b> | Intoxicating Liquor And Fermented Malt Beverage ..... | 2  |
| <b>Sec. 25.02</b> | Cigarette License.....                                | 5  |
| <b>Sec. 25.03</b> | Amusement Arcades.....                                | 5  |
| <b>Sec. 25.04</b> | Regulation Of Flea Markets .....                      | 6  |
| <b>Sec. 25.05</b> | Garage Sales.....                                     | 7  |
| <b>Sec. 25.06</b> | Sauna And Massage Establishments .....                | 8  |
| <b>Sec. 25.07</b> | Street Use Permit.....                                | 11 |
| <b>Sec. 25.08</b> | Day Care Centers And Nursery Schools .....            | 12 |

## LICENSES AND PERMITS

### Sec. 25.01 Intoxicating Liquor And Fermented Malt Beverage

- 1) The provisions of Chapter 125 of the Wisconsin Statutes, and any amendatory provisions thereto, relating to intoxicating liquor and fermented malt beverages, exclusive of any provisions thereof relating to the penalty to be imposed or the punishment for violation of statutes, are hereby adopted and made a part of this section by reference. The penalty for violation of any provision of this ordinance shall be a forfeiture which amount shall be within the minimum and maximum of the forfeiture or penalty prescribed in Chapter 125 of the Wisconsin statutes for the respective violation. In addition to any forfeiture imposed a suspension of a violator's operating privileges may be imposed as provided in the penalty provisions of Chapter 125 as they relate to sections 125.07 (1) or (4) (a), (b) or (bm), 125.08 (3) (b) or 125.09 (2) of the Wisconsin statutes
- 2) When License Required. No person, except as provided above, shall distribute, vend, sell, offer, or keep for sale at retail or wholesale, deal, or traffic in, or for the purpose of evading any law or ordinance, give away any intoxicating liquor or fermented malt beverage, or cause the same to be done, without having procured a license or permit as provided in this section, nor without complying with all the provisions of this section and all state ordinances and regulations of the state and village applicable thereto.
  - (a) Provisional Retail Licenses - A provisional retail license may be issued by the Village Clerk to a person who applies for a Class "A", Class "B", "Class A", "Class B" or "Class C" license and expires 60 days after its issuance or when the retail license is issued to the holder, whichever is sooner, pursuant to 125.185(4) of the Wisconsin statutes.
  - (b) Prior to the issuance of such provisional retail license the Clerk shall determine that the applicant and the premises will meet all standards required for the issuance of a regular retail license including qualifications of applicant, location of premises and physical condition of premises.
  - (c) The Village Clerk shall upon issuance of such license report the same to the Village Board at its next regular scheduled meeting.
  - (d) The license fee is \$15.00 for the provisional retail license.
  - (e) No license shall be issued to any person for the purpose of possessing, selling, or offering for sale any intoxicating liquor or fermented malt beverage in any dwelling, house, flat, or residential apartment.
- 3) Building Requirements for Sale of Class "A" Fermented Malt Beverages and "Class A" Liquor. No premises shall be issued a Class A Fermented Malt Beverage license or Class A Liquor license unless the area which will be used for storage, sale, or bartering in such commodity shall be a separate and distinct room upon the premises, containing separate entrances-staffed by an employee who holds a valid operator's license. This provision shall not prohibit the display or sale of accompaniments or snacks generally associated with the sale of liquor, within such area.
  - (a) The separate room shall consist of solid unbroken walls at least six feet high separating the area devoted to the sale of such commodity from any and all other businesses conducted on the same premises. Doors or entranceways to the separate rooms shall not be wider than ten feet or narrower than three feet, except where the administrative code may require a larger entrance. There may be a separate exit to the outside.
  - (b) The licensee shall designate cash registers for the sale of all fermented malt beverages and liquor which must be staffed by an individual holding a bartender's license who shall be present in the cash register-checkout area at all times when the sale of liquor is permitted and who shall observe the checkout of all alcohol beverages.
  - (c) The area in which fermented malt beverages or liquor is sold shall be arranged and constructed in a manner to permit and facilitate its closing during the hours and days required by the Wisconsin statutes and applicable village ordinances. This secured area shall include a permanent door or flexible-gate to prevent entrance during closed hours.
  - (d) No operator shall permit any person under the legal drinking age, not accompanied by a parent or guardian, to enter and remain upon the premises segregated for sale of malt beverages/intoxicating liquor except as provided by state law.
  - (e) Prior to approving a license, the public protection committee shall review the building's floor plans to determine if the premises meet the requirements of this Municipal Code. These provisions shall not apply to any premises to which there is issued a brewers license.
    - 1) A Class "B" fermented malt beverage and/or intoxicating liquor licensee whose premises are expanded to outdoor areas such as patios, volleyball pits, beer gardens and the like shall be required

- to install fencing around the perimeter of the outside premises. Such fencing may consist of wire mesh, solid vegetation, wood, plastic, or other similar material which will provide for an enclosed area on the outside of the licensed premises.
- 2) Prior to installation of such fencing, a diagram of the proposed fencing shall be presented to the Village to ensure that the proposed fencing will adequately protect neighbors, limit noise, and prevent or limit access by underage individuals and provide visibility to law enforcement to ensure the premises is complying with alcohol beverage requirements.
  3. That in lieu of the fencing required above, the Village may authorize the use of security personnel to patrol such outdoor premises on a full time basis during such times that the outdoor premises are open for business.
  - 3) That outdoor volleyball courts, horseshoe pits, or other athletic areas licensed as premises shall cease operation after 11:00 P.M. of each day in such outdoor licensed areas.
- 4) Sale of Fermented Malt Beverages by Village. The sale of fermented malt beverages by officers or employees of the village in village parks may be permitted pursuant to Wisconsin statutes 125.06(6) and with the approval of the Village Board.
  - 5) Hearing. Opportunity shall be given by the Village Board to any person to appear for or against the granting of any license.
  - 6) Requirements for Licenses. An applicant for license or permit shall meet the minimum requirements as provided in chapter 125 of the Wisconsin statutes, as amended, addition to any requirements as provided in this Municipal Code.
    - (a) Any person applying for a Class "B" Combination Intoxicating Liquor license shall have a premise at the time application is made or within the license year. In the event a permit for construction or remodeling has been issued and substantial progress is being made on such construction or remodeling, the licensee shall be considered to meet the requirement of having a premises. In the event such licensee does not so obtain a premises such license shall be subject to revocation or non-renewal. Any licensee granted a license that closes or abandons such Class "B" Combination Intoxicating Liquor business shall be subject to non-renewal.
    - (b) Unless extended by the Village Board for good cause shown, the closing of any premises for 90 consecutive days shall be prima facie evidence of the abandonment.
    - (c) All license fees shall be due on or before June 30 in the year of its renewal, or in the event of a transfer during the license year within five days of the Village Board granting of such transfer. Non-payment of license fees within the required time shall be grounds for revocation.
  - 7) Occupancy Requirements for Holders of Class "B" Combination Intoxicating Liquor Licenses. No owner, operator, or person shall permit, suffer, or allow a greater number of persons in a building or premise or part thereof for which a license is required under this Municipal Code than that which the premise will accommodate under the standards of the Wisconsin Administrative Code as amended or any other ordinance provision as amended which applies to occupancy.
  - 8) Effect of Revocation of License. No license shall be issued for any premises if a license covering such premises has been revoked within six months prior to application. No license shall be issued to any person who has had a license issued pursuant to this chapter revoked within twelve months prior to application.
  - 9) Inspection of Application and Premises. The Clerk shall notify the Building Inspector and Fire Chief of all license and permit applications and these officials shall inspect or cause to be inspected each application and premises to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances, and laws applicable thereto and the applicants fitness for the trust to be imposed. These officials shall furnish to the Public Safety Committee in writing the information derived from such investigation. No license shall be issued for any premises which do not conform to the sanitary, safety, and health requirements of the State Board of Health and to all such ordinances and regulations adopted by the village and the county, where applicable.
  - 10) Closing Hours.
    - (a) Class "B" Closing Hours. No premises for which a Class "B" fermented malt beverages license or "Class B" liquor license shall be issued shall remain open for the sale of liquor, fermented malt or other

beverages in the Village between 2:00 A.M. and 6:00 A.M., Monday through Friday, and between 2:30 A.M. and 6:00 A.M. Saturday and Sunday. On January 1st, Class B premises are not required to close.

- (b) "Class A" Closing Hours. No premises for which a "Class A" liquor license shall be issued shall remain open for the sale of liquor in the Village of Whiting between the hours of 9:00 p.m. and 8:00 a.m.
- (c) No premises for which a Class "A" fermented malt beverage license shall be issued shall remain open for the sale of fermented malt beverages between the hours of midnight and 8:00 am.
- (d) Presence of Underage Persons on Premise.
- (e) Underage persons who are not accompanied by a parent, legal guardian or spouse who has attained the legal drinking age may enter and remain in a room on a Class "B" or "Class B" licensed premise which is separate from any room where alcohol beverages are sold or served if:
  - 1) No alcohol beverages are furnished or consumed by any person in the room where the underage person is present, and
  - 2) The Class "B" or "Class B" licensee obtains a written authorization from the Village Board permitting underage persons to be present on a specified date set forth in the authorization. Prior to the issuance of any authorization, the Village Board shall make a determination that the presence of underage persons on the licensed premises will not endanger their health, welfare, or safety or that of other members of the community. Licensees shall obtain a separate authorization for each date on which underage persons will be present on the premises.
- (f) The presence of underage persons on a licensed premise authorized by subsection (a) or section 125.07(3)(a)(10) of the Wisconsin Statutes shall be subject to any reasonable restrictions established by the Village Board.

#### 11) Operator's License

- (a) New Applications. New applicants for an operator's license shall be issued a provisional license by the Village Clerk in accordance with Section 125.17(5), Wisconsin statutes, if all other conditions of Section 125.04(5) of the Statutes have been met, until the responsible beverage server-training course requirements have been fulfilled, but not to exceed 60 days from date of issuance. Upon successful completion of the training course, a regular operator's license shall be issued by the Village Clerk at no additional cost, to expire on June 30th following issuance. Persons failing to complete such course within 60 days may apply for no more than one additional provisional license within the license year upon payment of another fee.
- (b) Renewal Applications. Holders of regular operator's licenses may apply for renewal. Renewal licenses shall expire on the second June 30th following issuance of such license.
- (c) Applicants for an Operator's License shall complete a form provided by the Village Clerk and sign such.

#### 12) Delinquent Taxes. Prior to issuance of any liquor license to any applicant, the Clerk-Treasurer shall review the records of the Village to determine whether all real estate, personal property, or other Village taxes are paid in full. Any applicant who has taxes outstanding shall not be issued a license until the same have been paid in full.

#### 13) Manager's License.

- (a) Pursuant to section 125.18(1) of the Wisconsin Statutes, there is created a "Manager's License," the purposes of which shall be to comply with sections 125.32(1) and 125.68(1) of the Wisconsin Statutes. It shall be unlawful for any person to perform the duties and tasks of a manager as outlined in said sections 125.32(1) and 125.68(1) without first having obtained such license.
- (b) Completion of the responsible beverage server-training course is required within 60 days of issuance of a manager's license. The exemptions from training requirement contained in Sec. 125.17(6), Wisconsin statutes, for operators licenses shall also apply to managers' licenses. Failure to satisfy this condition will result in automatic revocation.

#### 14) Temporary Operator's License.

- (a) Pursuant to 125.17(4) of the Wisconsin statutes, there may be issued a temporary operator's license, providing that:
  - 1) The operator is donating the services to a non-profit organization.
  - 2) No person may hold more than one license of this kind per year.
  - 3) The license is valid for a period of not more than fourteen days, and the period for which it is valid and the non-profit organization shall be stated on the license.

- 4) The applicant must be of legal drinking age, may not have an arrest or conviction record subject to section 111.335 of the Wisconsin statutes, and may not be a "habitual law offender."
  - 5) Application must be made in writing.
  - (b) There shall be no fee for a temporary operator's license.
- 15) Temporary Wine License. "Class B" temporary wine licenses may be issued by the Clerk pursuant to Wisconsin statutes 125.51(10) and upon approval of the Village Board.
- 16) Applications Due. Applications for Class "B" picnic licenses must be made not less than ten days prior to granting of the licenses. Applications for "Class B" temporary wine licenses must be made not less than fifteen days prior to granting of the licenses.

**Sec. 25.02** Cigarette License

- 1) LICENSE REQUIRED. No person, firm or corporation shall in any manner, directly or indirectly, upon any premises, or by any device sell, exchange, barter, dispose of, or give away, or keep for sale any cigarette, or tobacco products, cigarette paper or cigarette wrappers, or any substitute therefore, without first obtaining a license as hereinafter provided.
- 2) APPLICATION FOR LICENSE; FEE. Every person, firm or corporation desiring a license under this Section shall file with the Village Clerk-Treasurer a written application therefore, stating the name of the person and the place for which such license is desired. Each license shall be filed by the Village Clerk-Treasurer and shall name the licensee and the place wherein he is authorized to conduct such business. And the same shall not be delivered until the applicant shall pay to the Village Clerk-Treasurer a license fee of five dollars.
- 3) ISSUANCE AND TERM OF LICENSE. Licenses for the sale, exchange, and barter, disposition of, giving away or keeping for sale of any cigarette, cigarette paper, tobacco products or cigarette wrappers or any substitute therefore shall be issued by the Village Clerk-Treasurer. Each license shall be issued on the first day of July in each year, or thereafter whenever applied for, and shall continue in force from date of issuance until the succeeding June 30th, unless sooner revoked for any violation of this Section.

**Sec. 25.03** Amusement Arcades

- 1) LICENSE REQUIRED. No person, firm, or corporation shall operated or keep an amusement arcade as defined herein, without having obtained and posted on the premises, in plain view, a license to operate such arcade. Application shall be made to the Village Clerk-Treasurer on the form provided by such office, accompanied by an application fee of five (\$5.00) Dollars which shall cover the cost of processing the application and shall be non-refundable. The application shall set forth the following information:
  - (a) The name and address of the applicant, or, if a partnership, the name and addresses of all the partners, or, if a corporation, the names and addresses of the principal officers and registered agent thereof, and the name and address of the person who will supervise the game room.
  - (b) The name and addresses of the owners of the amusement devices to be located on the licensed premises, if such owners are different from that of the applicant. If the owners of the amusement devices is a partnership, the names and addresses of all the partners, or if a corporation, the names and addresses of the addresses of the principal officers and registered agent thereof.
  - (c) A building plan of the premises to be licensed specifically describing and otherwise showing all dimensions, indicating and intended division of floor space, exits, and entrances, the areas to be used for amusement devices, and the common aisles.
  - (d) A site plan of the premises to be licensed which shall include the proposed landscaping for the subject premises, and all the improvements, parking and driveway areas, and landscaping located on property adjacent to and within twenty feet of the property lines of the premises to be licensed.
  - (e) If the applicant operates other game rooms in other areas, the names and addresses of such other licensed establishments.
  - (f) Such application shall also contain such additional information, as the Village deems necessary to assist it in determining the qualifications of the applicant for such license.

- 2) **INSPECTION.** The Village Clerk-Treasurer shall notify the Building Inspector and Fire Chief of each new application for license and these officials shall inspect or cause to be inspected each application and the premises, together with such other investigation as shall be necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto, including those governing sanitation in restaurants, and whether the applicant is a proper recipient of a license. The Building Inspector and Fire Chief shall furnish to the Village Board in writing the information derived from such investigation, accompanied by a recommendation as to whether a license should be granted or refused. No license shall be renewed without a re-inspection of the premises and report as originally required.
- 3) **PUBLIC HEARING.** The application shall be forwarded to the Village Board which shall hold a public hearing prior to the granting or denial of any amusement arcade license. In reviewing each application, The Village Board shall find:
  - (a) That the establishment, maintenance, or operation of an amusement Arcade at the location requested will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.
  - (b) That the proposed amusement arcade will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
  - (c) That the establishment of the amusement arcade will not impede the normal orderly development and improvement of the surrounding property for uses permitted in the district.
  - (d) That adequate measure has been or will be taken to maintain good order surrounding the location thereof.
- 4) **ISSUANCE OF LINCENSE; TERM.** The Village Clerk-Treasurer shall issue a license upon approval of the application by the Village Board, upon the payment by the applicant of an annual license fee of five dollars. All licenses issued herein shall be for one year ending on the 30th day of June and shall not be transferable.
- 5) **HOURS OF OPERATION FOR AMUSEMENT ARCADES.**
  - (a) No premises for which an amusement arcade license has been issued shall be permitted to remain open for the offering of electronic amusement devices to the public at retail between the hours of 10:00 p.m. and 10:00 am.
  - (b) No premises for which an amusement arcade license has been issued shall be permitted to remain open for the offering of amusement devices to the public at retail between the house of 10:00 p.m. and 3:00 p.m. on any day in which school is in regular session.
  - (c) For the purpose of this section the term public school or parochial school shall be any institution providing learning facilities for Grade K thru 12.
  - (d) **GENERAL REQUIREMENTS FOR AMUSEMENT ARCADES.** The following general requirements shall apply to all amusement arcades licensed in accordance with this Chapter:
  - (e) All amusement arcades shall have an adult supervisor on the premises at all times in which the game room is open to the public.
  - (f) Every amusement arcade shall provide an adequate area and number of bicycle racks for the orderly parking of bicycles, which area shall be separate from a required vehicle-parking stall and shall be so located as to not occupy any portion of a public sidewalk or to otherwise obstruct pedestrian passage to and from the premises.
  - (g) Game rooms licensed herein shall comply with all other building, fire code, and applicable Village laws and regulations.
  - (h) All arcades shall post rules of non-acceptable patron conduct and shall order anyone violating the rules to leave the premises.
- 6) **LICENSE REVOCATION.** Licenses may be revoked by the Village Board after notice and public hearing, in the event an amusement arcade's location or operation fails to conform to standards provided in this Chapter, or violates any other provision of this Municipal Code.

#### **Sec. 25.04** Regulation Of Flea Markets

- 1) **DEFINITIONS.** As used in this ordinance, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- (a) Flea market: a market, indoors or out of doors, where new or used items are sold from individual locations, with each location being operated independently from the other locations. Items sold include but are not limited to household items, antiques, rare items, decorations, used books and used magazines.
  - (b) Flea market seller: a person, firm or corporation selling items or offering items for sale at a flea market.
  - (c) Market: a place where goods are sold to the public.
- 2) **LICENSE REQUIRED.** No person, firm, or corporation shall operate the business of renting space or allocating space to flea market sellers without first obtaining a license therefore from the Village Board. Applications for license shall be made to the Clerk-Treasurer, on forms to be provided by the Clerk-Treasurer. Only one license shall be required for each flea market, and the individual flea market sellers shall not be required to obtain a license under this section. The fee for such license shall be ten dollars per year. The Village Board may restrict the license for use on certain dates and times.
  - 3) **INFORMATION TO BE FILED.** The Information to be filed with the Clerk-Treasurer, pursuant to this ordinance, shall be as follows:
    - (a) Name of person, firm, group, corporation, association, or organization conducting said sale.
    - (b) Name of owner of the property on which said sale is to be conducted, and consent of owner if applicant is other than the owner.
    - (c) Location at which sale is to be conducted.
    - (d) Number of days of sale.
    - (e) Date, nature of any past sale.
    - (f) Relationship or connection applicant may have had with any other person, firm, group, organization, association, or corporation conducting said sale and the date or dates of such sale.
    - (g) Whether or not applicant has been issued any other vendor's license by any local, state, or federal agency.
    - (h) Sworn statement or affirmation by the person signing that the information therein given is full and true and know to him to be so.
  - 4) **RECORDS TO BE KEPT BY LICENSEE.** Each person required by this ordinance to obtain a license shall keep accurate records of the names and addresses of each flea market seller, together with a brief description of the type of types of merchandise offered for sale by that seller.
  - 5) **SECOND HAND STORES ACCEPTED.** No person, firm or corporation having a license as a secondhand store shall be required to obtain a license under this ordinance for the same business location.
  - 6) **MORE THAN ONE MARKET.** Any person, firm or corporation renting or allocating space to flea market sellers in more than one place of business shall be required to obtain a license for each place of business, provided that one license shall be adequate for location that are on the same lot, adjacent lots or lots separated only by an alley.
  - 7) **UNLAWFUL TRANSACTIONS.** No person shall sell or offer for sale at any flea market any goods known to such person to be stolen.
  - 8) **PURCHASES FROM CHILDREN.** No flea market seller shall purchase any used household item, antique or used article whatsoever from any person under the age of eighteen years, unless such person is accompanied by the person's parent or guardian.
  - 9) **HOURS.** Flea markets may remain open for business between the hours of 9:00 a.m. and 8:00 p.m., unless otherwise specified on the license by the Village Board at time of issuance.
  - 10) **PENALTY.** In addition to the suspension or revocation of a license issued under this ordinance, any person who shall violate any provision of this Section or any regulation, rule or order made hereunder shall be subject to a penalty provided for in this Municipal Code.

**Sec. 25.05** Garage Sales

- 1) **FREQUENCY OF SALES; OWNERSHIP OF MERCHANDISE.**

- (a) Garage sales, yard sales and similar merchandise sales may be held no more than four times per year at any residence, for a total of not more than eight days in that year. All goods offered for sale shall be household goods or personal possessions from the residence where the sale is being held or, in the case of a group sale, for the residences of the participating households. In no case shall any sales become outlets for wholesale or retail commercial sales.
  - (b) Any garage sales, yard sales and similar merchandise sales by nonprofit, philanthropic, or civic organizations must be approved by the Clerk-Treasurer, and may be held no more than four times per year for not more than a total of eight days in that year. In no case shall any sales become outlets for wholesale or retail commercial sales.
- 2) HOURS. Garage sales shall be conducted between 7:30 a.m. and 8:00 p.m. Each sale shall last no longer than four consecutive days.
- 3) SIGNS.
- (a) Garage sale signs may not have an area more than six square feet with a maximum of two faces. Garage sale signs shall identify the location of the sale and must be located at least five feet from the street line or nearest lot line.
  - (b) No garage sale sign may be located on utility poles, traffic control devices, or on property or the adjoining right-of-way of property the owner of which has not given explicit permission for its location.
  - (c) No garage sale sign shall be displayed before one day before the sale or one day following the sale.
  - (d) No more than one garage sale sign may be located at the sale site and no more than two garage sale signs may be located off the site, except that two signs are permitted on corner lots, one facing each street.
  - (e) DEFINITIONS. The following definitions are applicable to this Section:
  - (f) Garage Sale. All general sales open to the public, conducted from or on a residential premises, for the purpose of disposing of personal property, including but not limited to all sales entitled rummage, lawn, yard, porch, room backyard, patio, or garage sale.
  - (g) Personal Property. Property which is owned, utilized, maintained, and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.
- 4) PENALTY. In addition to the suspension or revocation of a license issued under this ordinance, any person who shall violate any provision of this Section or any regulation, rule or order made hereunder shall be subject to a penalty as provided in this Municipal Code.

#### **Sec. 25.06**      Sauna And Massage Establishments

- 1) DEFINITIONS. For the purpose of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them:
- (a) MASSAGE. Any methods of pressure on, friction against or stroking, kneading, rubbing, tapping, pounding, bathing, touching, binding, painting, irritating, or stimulating of external parts of the body with hands or with the aid of any manual, mechanical or electrical apparatus or appliance, with or without such supplementary aids as rubbing alcohol, liniments, antiseptic oils, powder, crèmes, lotions, soaps, ointments, or other similar preparations commonly used in this practice.
  - (b) MESSAGE ESTABLISHMENT. Any establishment having its place of business where any person, firm, association, or corporation engages in or carries on permits to be engaged or carried on any of the activities mentioned in subparagraph (a) hereof.
  - (c) MESSAGE SERVICES. The providing of a message or massages by any person, firm, association or corporation.
  - (d) SAUNA. A steam bath or heated bathing room used for the purpose of bathing, relaxation, or reducing utilizing steam or hot air as a cleaning, relaxing or reducing agent.
  - (e) MESSEUR OR MASSEUSE. Any person who, for any consideration whatever, engages in the practice of massage as above defined.
  - (f) EMPLOYEE. All persons other than masseurs or masseuses who render any service for the licensee and who receives compensation directly from the licensee but has no physical contact with customers or clients.
  - (g) PERSONS. Any individual, co-partnership, firm, association, joint stock company, corporation, or any combination of individuals of whatever form or character.



- (h) LICENSEE. The operator of a message establishment.
- 2) LICENSE REQUIRED. It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, upon any premises in the Village of Whiting the operation of a massage establishment as herein defined without first having obtained a license from the Village Clerk-Treasurer which shall be issued upon written application and which shall be subject to cancellation as herein after provided.
- 3) APPLICATION AND FEE.
- (a) Every applicant for a permit to maintain, operate, or conduct a massage establishment shall file an application in triplicate, under oath, with the Village Clerk-Treasurer upon a form provided by the Village Clerk-Treasurer, and pay a refundable filing fee of Five Hundred (\$500.00) Dollars to the Village who shall issue a receipt which shall be attached to the application filed with the Clerk-Treasurer.
- (b) The Village Clerk-Treasurer shall forthwith refer copies of such application and all additional information to the County Health Department and fire Department. These agencies shall within thirty (30) days, inspect the premises proposed to be operated as a massage establishment, and make recommendations to the Village Board concerning compliance with Village Ordinances. Upon receipt of the recommendations of the respective Agencies, the Village Clerk-Treasurer shall notify the applicant as to whether his application has been granted, denied, or held for further investigation or corrective action. The period held for corrective action or additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant.
- (c) At the conclusion of such period, or such longer period if agreed to, the Village Clerk-Treasurer shall advise the applicant in writing as to whether the application has been granted or denied. If the application is denied, the Village Clerk-Treasurer shall advise the applicant in writing of the reason for such denial.
- (d) The failure or refusal of the applicant to give any information relevant to the investigation of the application within a reasonable time, or the refusal or failure of the applicant to appear at any reasonable time and place for examination under oath regarding said application, or the refusal of applicant to submit to or cooperate with any inspection required by this section, shall be grounds for denial of the application.
- 4) APPLICATION FOR LICENSE FOR MASSAGE ESTABLISHMENT. The application for a license to operate a massage establishment shall set forth the services to be administered and the proposed place and facilities thereof. In addition thereto, any applicant for a license, which shall be the sole proprietor, if a sole proprietor applicant, a partner, if a partnership applicant, and the designated agent, if a corporate applicant, shall furnish the following information:
- (a) Written proof that each individual is at least eighteen years of age.
- (b) Current residential addresses.
- (c) Whether the individual has had any license denied, revoked, or suspended elsewhere for a massage establishment, the reason therefore, and the business activity or occupation of the individual subsequent to such suspension, revocation, or denial.
- (d) Satisfactory proof that he applicant has been a resident of the State of Wisconsin for at least one year and of the county for at least ninety days.
- 5) LICENSE
- (a) Upon receipt of the recommendations of the respective agencies and with the information contained in the application, together with all additional information provided therein, the Village Board shall direct the issuance of the license by the Village Clerk-Treasurer to the applicant to maintain, operate, or conduct a massage establishment unless the Village Board shall find:
- 1) That the operation of the massage establishment as proposed by the applicant, if permitted, would not comply with the applicable laws of the State of Wisconsin and the Village, including but not limited to the building, health, planning, housing, fire prevention, and zoning codes of the Village.
  - 2) That the applicant or any other person who shall be directly or indirectly engaged in the management and operation of the massage establishment has been convicted of a felony.
  - 3) That the operation of the massage establishment as proposed by the applicant, if permitted, would violate the provisions of this Chapter.
- (b) The license provided herein shall be for a period of one year from date of application, unless sooner suspended or revoked. Such license must be renewed annually.

6) CONSTRUCTION AND MAINTENANCE REQUIREMENTS FOR SAUNA AND MASSAGE ESTABLISHMENT.

- (a) Any sauna or massage establishment as defined herein shall construct its facilities and maintain same in accordance with the following regulations:
- 1) All sauna rooms, massage parlors and all restrooms used in connection therewith shall be constructed of materials and maintained so that they are impervious to moisture, bacteria, mold, or fungus growth.
  - 2) Shower rooms must be finished in tile or equal material with proper floor drains.
  - 3) Each sauna establishment having two or more massage rooms shall be required to have a separate restroom for men and women, and provided with mechanical ventilation with two cfm per square foot of floor area, a minimum of fifteen (15) foot candles of illumination, a hand-washing sink equipped with hot and cold running water under pressure, sanitary towels, and soap dispenser.
  - 4) Each sauna or massage establishment shall have a janitor's closet which shall be provided for the storage of cleaning supplies.
  - 5) Floors, walls and equipment in sauna rooms, massage parlors, restrooms and in bathrooms used in connection therewith must be kept in a state of good repair and sanitary at all times. Linens and other materials shall be stored at least six inches off the floor. Sanitary towels, washcloths, cleaning agents and toilet tissue must be available for each customer.
  - 6) Individual lockers shall be made available for use by each customer. Such lockers shall have a separate key for locking.
  - 7) Doors on massage rooms shall not be locked, but shall contain an adequate door latch for privacy. All massage rooms shall be clearly identified by doorplates or signs.
  - 8) Each sauna or massage establishment shall have approved fire extinguishers, fire exits designated by fire exit signs.
- (b) If any provision of this section is inconsistent with a comparable and applicable provision of the building code, the provision of the building code shall govern to the extent of such inconsistency.
- (c) The establishment shall permit inspection of the premises at any time during business hours by Building Inspectors, Fire Inspectors, Health Inspectors, and law enforcement officers.
- (d) Entrance doors during business hours shall be open to the public the same as any other business.

7) PERMIT FOR MASSEUR OR MASSEUSE. Any person who engages in the practice of massage as herein defined shall file an application for a permit as a masseur or masseuse, which application shall be filed with the Village Clerk-Treasurer upon the form provided by the Clerk-Treasurer and shall pay a nonrefundable filing fee of twenty five dollars for the original application and twenty five dollars for each renewal application to the Village.

8) APPLYING FOR MASSEUR OR MASSEUSE.

- (a) The application for a permit for a masseur or a masseuse shall contain the following:
- 1) Name and residence.
  - 2) Social Security number.
  - 3) Written evidence that the applicant is at least eighteen years of age.
- (b) The applicant shall further undergo a physical examination and present the written results thereof for contagious and communicable diseases which shall include a test or tests which will demonstrate freedom from tuberculosis, and each test shall have been made by a licensed physician and all laboratory tests shall be in licensed laboratories. The applicant shall then present a certificate with the results of each such examination signed by a licensed physician, stating that the person examined is either free from any contagious or communicable disease or is in incapable of communicating any such disease to others. Each applicant shall undergo the physical examination provided herein and present to the Village Clerk-Treasurer the certificate required herein prior to the commencement of employment and at least once each twelve months thereafter.

9) ISSUANCE OF PERMIT FOR MASSUR OR MASSEUSE. The Village Clerk-Treasurer shall direct the issuance of permit for a masseur or masseuse upon receipt of completed application and upon receipt of certificate of examination stating that the person examined in either free from any contagious or communicating any such disease to others.

- (a) Said permit is subject to cancellation upon the following grounds:
- 1) If a law enforcement officer finds that the applicant for a permit has been convicted of a felony; or
  - 2) The applicant has failed to provide all of the information required by this Chapter.

- (b) Each permit for a masseuse, pursuant to this Chapter, and any renewal shall be for a one-year term and shall be displayed by the permit holder while engaged in his or her employment. Permits may be applied for and will only be issued Monday through Thursday.

10) HOURS OF OPERATION. No massage establishment in the Village shall be permitted to remain open for any purpose between 1:00 a.m. and 8:00 a.m. except during the period of the year for which the standard of time is advanced under section 175.095 of the Wisconsin Statutes when the premises shall be closed between 2:00 a.m. and 8:00 a.m.

11) ENFORCEMENT AND PENALTIES.

- (a) INTERFERENCE. No person shall prevent, resist, or interfere with any of the officers or employees of the Village in the entering of any premises or the carrying out of their duties.
- (b) PENALTIES. Any person violating any provision of this Chapter, including those provisions of the Wisconsin Statutes or any other materials which are incorporated by reference, shall suffer one or all of the following penalties; provided, however that in no case shall the forfeiture imposed for a violation of any provision of this Chapter exceed the maximum fine for the same offense under the laws of the State of Wisconsin:
  - 1) Any license or permit issued pursuant to this Chapter may be suspended by the Village President without hearing not to exceed thirty days.
  - 2) Any license or permit issued pursuant to this Chapter may be suspended more than thirty (30) days or revoked by the board after allowing the licensee or permittee a hearing on notice.
  - 3) Any license or permit issued pursuant to this chapter may be suspended or revoked by a court of competent jurisdiction upon conviction of an ordinance violation.
  - 4) Upon conviction thereof, shall forfeit not less than Twenty Dollars nor more than Two Hundred Dollars and the costs of prosecution, and in default of payment of such forfeiture and the costs of prosecution shall be imprisoned in the County Jail until payment of such forfeiture and costs of prosecution, but not exceeding ninety days for each violation. Each day shall constitute a separate violation.

**Sec. 25.07** Street Use Permit

- 1) PURPOSE. The streets in possession of the Village are primarily for the use of the public in the ordinary way. However, under proper circumstances the Village Board may grant a permit for street use, subject to reasonable municipal regulation and control. Therefore, this ordinance is enacted to regulate and control the use of streets pursuant to a Street Use Permit to the end that the health, safety and general welfare of the public and the good order of the Village can be protected and maintained.
- 2) APPLICATIONS. A written application for a Street Use Permit by persons or groups desiring the same shall be made on a form provided by the Village Clerk-Treasurer and shall be filed with the Village Clerk-Treasurer. The application shall set forth the following information regarding the proposed street use:
  - (a) The name, address, and telephone number of the applicant or applicants.
  - (b) If the proposed street use is to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorizing responsible heads of such organization.
  - (c) The name, address and telephone number of the person or persons who will be responsible for conducting the proposed use of the street.
  - (d) The date and duration of time for which the requested use of the street is proposed to occur.
  - (e) An accurate description of that portion of the street proposed to be used.
  - (f) The number of persons for who use of the proposed street area is requested.
  - (g) The proposed use, described in detail, for which the Street Use Permit is requested.
  - (h) The proposed use, described in detail, for which the Street Use Permit is requested.
- 3) REPRESENTATIVE AT BOARD MEETING. The person or representative of the group making application for a Street Use Permit shall be present when the Village Board gives consideration to the granting of said Street Use Permit to provide any additional information which is reasonably necessary to make a fair determination as to whether a permit should be granted.

- 4) **PETITION.** he application shall be accompanied by a petition designating the proposed area of the street to be used and time for said proposed use, said petition to be signed by not less than seventy five percent of the residents over eighteen years of age residing along that portion of the street designated for the proposed use. Said petition shall be verified and shall be submitted on a form specified by the Village Clerk.
- 5) **FEES.** An application for a Street Use Permit for less than three blocks shall be accompanied by a fee of five dollars for the permit. If the application is for three or more blocks, a fee of fifteen dollars shall accompany the application plus a flat user fee of twenty dollars if traffic must be rerouted for the street closure. If the application is for an event in which a major activity is the sale or promotion of commercial products or services, the application shall be accompanied by a fee often ten dollars, plus a thirty dollar flat user fee per day and the applicant shall agree to pay within twenty days of billing all Village costs incurred by the occasion of the event. The applicant may be required to furnish a performance bond prior to being granted the permit.
- 6) **INSURANCE.** The Applicant for a Street Use Permit may be required to indemnify, defend, and hold the Village and its employees and agents harmless against all claims, liability, loss, damage or expense incurred by the Village on account of any injury to or death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the permit, the applicant may be required to furnish Certificate of Comprehensive General Liability insurance with the Village of Whiting. The applicant may be required to furnish a performance bond prior to being granted the permit.
- 7) **TERMINATION OF A STREET USE PERMIT.** A Street Use Permit for an event in progress may be terminated by the Sheriff's Department or Fire Department if the health, safety, and welfare of the public appear to be endangered by activities generated as a result of the event or the event is in violation of any of the conditions of the permits or ordinances of the Village of Whiting. The Sheriff's Department and Fire Department have the authority to revoke a permit or terminate an event in progress if the event organizers fail to comply with any of the regulations in the street use policy or conditions stated in the permit.

**Sec. 25.08** Day Care Centers And Nursery Schools

- 1) **OPERATION OF DAY CARE CENTERS AND NURSERY SCHOOLS REGULATED.**
  - (a) **Board of Health to Supervise.** All day care centers or nursery schools in the Village shall be under the supervision of the Portage County Board of Health and shall meet all rules and regulations of the State of Wisconsin Department of Health and Social Services, Children and Families Division as to licensing, inspection, and administrative criteria and rules of that Department.
  - (b) **State Regulations Adopted.** No day care center or nursery school shall be operated within the Village unless the facilities thereof are in compliance with the provisions of all applicable sections of the Wisconsin Administrative Code, which is hereby adopted and incorporated in this Section reference with the same effect as if it were fully set forth herein. The owner, lessor, lessee, operator and person in charge of any day care center or nursery school shall be mutually and severally responsible or compliance with the provisions of this subsection.
  - (c) **Inspections.** The Portage County Board of Health and Building Inspector shall inspect any premises licensed by the State to determine whether the premises conform to the Building Code and health and safety requirements of the Municipal Code.
- 2) **LICENSING OF DAY CARE CENTERS AND NURSERY SCHOOLS.** No person shall engage in the business of day care center or nursery school operator within the Village who does not hold a valid day care center operator's license issued by the Wisconsin Department of Health and Social Services.
- 3) **FENCING REQUIRED.** To assure the safety of those children who are cared for at a day care center, all such centers which are not located on a corner lot shall have all or an adequate portion of the rear yard fenced so as to help assure the safety of the children while playing outside. Center located on corner lots shall maintain such a fenced area in a side yard.