

TITLE 7

Licensing and Regulation

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Title 7 ► Chapter 1

Licensing of Dogs and Regulation of Animals

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Sec. 7-1-1 Dog License Required; Definitions.

- (a) **License Required.** It shall be unlawful for any person in the Village of Butler to own, harbor or keep any dog for more than five (5) months of age after July 1 of the license year without complying with the provisions of this Chapter and Sections 174.05 through 174.10, Wis. Stats., relating to the listing, licensing and tagging of the same.

- (b) **Definitions.** In this Chapter, unless the context or subject matter otherwise require:
- (1) **Owner.** Any person owning, harboring or keeping a dog or cat and the occupant of any premises on which a dog or cat remains or to which it customarily returns daily for a period of ten (10) days; such person is presumed to be harboring or keeping the dog or cat within the meaning of this Section.
 - (2) **At large.** To be off the premises of the owner and not under the control of some person either by leash or otherwise, but a dog or cat within an automobile of its owner, or in an automobile of any other person with the consent of the owner of said dog or cat, shall be deemed to be upon the owner's premises.
 - (3) **Dog.** Any canine, regardless of age or sex.
 - (4) **Cat.** Any feline, regardless of age or sex.
 - (5) **Neutered.** A dog or cat having nonfunctional reproductive organs.
 - (6) **Animal.** Mammals, reptiles and birds.
 - (7) **Cruel.** Causing unnecessary and excessive pain or suffering or unjustifiable injury or death.
 - (8) **Law Enforcement Officer.** Has that meaning as appears in Sec. 967.02(5), Wis. Stats., and includes a humane officer under Sec. 58.07, Wis. Stats., but does not include a conservation warden appointed under Sec. 23.10, Wis. Stats.
 - (9) **Farm Animal.** Any warm-blooded animal normally raised on farms in the United States and used for food or fiber.
 - (10) **Pet.** An animal kept and treated as a pet.
 - (11) **Residential Lot.** A parcel zoned as residential, occupied or to be occupied by a dwelling, platted or unplatted and under common ownership. For the purpose of this Chapter, any vacant parcel or parcels adjoining a dwelling and under the same ownership shall constitute one (1) lot.
 - (12) **Restrain.** Includes notifying the dog or cat's owner or an officer and requesting either the owner or officer to capture and restrain the dog or cat, or capturing and restraining the dog or cat, and killing the dog or cat if the circumstances require immediate action.
 - (13) **Untagged.** Not having a valid license tag attached to a collar kept on the dog whenever the dog is outdoors unless the dog is securely confined in a fenced area.

State Law Reference: Sections 174.05 through 174.10, Wis. Stats.

Sec. 7-1-2 Rabies Vaccination Required for License.

- (a) **Rabies Vaccination.** The owner of a dog shall have the dog vaccinated against rabies by a veterinarian within thirty (30) days after the dog reaches four (4) months of age and revaccinated within one (1) year after the initial vaccination. If the owner obtains the dog or brings the dog into the Village of Butler after the dog has reached four (4) months of

age, the owner shall have the dog vaccinated against rabies within thirty (30) days after the dog is brought into the Village unless the dog has been vaccinated as evidenced by a current certificate of rabies vaccination. The owner of a dog shall have the dog revaccinated against rabies by a veterinarian before the date of that immunization expires as stated on the certificate of vaccination or, if no date is specified, within two (2) years after the previous vaccination. The certificate of vaccination shall meet the requirements of Sec. 95.21(2), Wis. Stats.

- (b) **Issuance of Certificate of Rabies Vaccination.** A veterinarian who vaccinates a dog against rabies shall complete and issue to the owner a certificate of rabies vaccination bearing a serial number and in the form approved by the Village stating the owner's name and address, the name, sex, spayed or unspayed, neutered or unneutered, breed and color of the dog, the date of the vaccination, the type of rabies vaccination administered and the manufacturer's serial number, the date that the immunization expires as specified for that type of vaccine by the Center for Disease Control of the U.S. Department of Health and Human Services and the Village.
- (c) **Copies of Certificate.** The veterinarian shall keep a copy of each certificate of rabies vaccination in a file maintained for this purpose until the date that the immunization expires or until the dog is revaccinated, whichever occurs first.
- (d) **Rabies Vaccination Tag.** After issuing the certificate of rabies vaccination, the veterinarian shall deliver to the owner a rabies vaccination tag of durable material bearing the same serial number as the certificate, the year the vaccination was given and the name, address and telephone number of the veterinarian.
- (e) **Tag to be Attached.** The owner shall attach the rabies vaccination tag or a substitute tag to a collar and a collar with the tag attached shall be kept on the dog at all times, but this requirement does not apply to a dog during competition or training, to a dog while hunting, to a dog securely confined indoors or to a dog securely confined in a fenced area. The substitute tag shall be of a durable material and contain the same information as the rabies vaccination tag. The requirements of this paragraph do not apply to a dog which is not required to be vaccinated under Subsection (a).
- (f) **Duplicate Tag.** The veterinarian may furnish a new rabies vaccination tag with a new serial number to an owner in place of the original tag upon presentation of the certificate of rabies vaccination. The veterinarian shall then indicate the new tag number on the certificate and keep a record in the file.
- (g) **Cost.** The owner shall pay the cost of the rabies vaccination and the cost associated with the issuance of a certificate of rabies vaccination and the delivery of a rabies vaccination tag.

Sec. 7-1-3 Issuance of Dog and Kennel Licenses.

- (a) **Dog Licenses.**
 - (1) a. Per Sec. 174.065(1), Wis. Stats., the Collecting Officials for the issuance of dog licenses are the Village of Butler and the Elm Brook Humane Society. The fees collected will be turned over to the Village of Butler.

7-1-3

b. It shall be unlawful for any person in the Village of Butler to own, harbor or keep any dog more than five (5) months of age without complying with the provisions of Sec. 174.05 through Sec. 174.10, Wis. Stats., relating to the listing, licensing and tagging of the same.

- (2) The owner of any dog more than five (5) months of age on January 1 of any year, or five (5) months of age within the license year, shall annually, or on or before the date the dog becomes five (5) months of age, pay a license tax and obtain a license.
- (3) The minimum license tax under this Section shall be:
 - a. Neutered males and spayed females: As prescribed in Section 1-3-1.
 - b. Unneutered males and unspayed females: As prescribed in Section 1-3-1.
- (4) Upon payment of the required license tax and upon presentation of evidence that the dog is currently immunized against rabies, as required by Section 7-1-2 of this Chapter, the Village Treasurer shall complete and issue to the owner a license for such dog containing all information required by state law. The Village Treasurer shall also deliver to the owner, at the time of issuance of the license, a tag of durable material bearing the same serial number as the license, the name of the county in which issued and the license year.
- (5) The owner shall securely attach the tag to a collar and the collar with the tag attached shall be kept on the dog for which the license is issued at all times, except as provided in Section 7-1-2(e).
- (6) The fact that a dog is without a tag attached to the dog by means of a collar shall be presumptive evidence that the dog is unlicensed. Any law enforcement or humane officer shall seize, impound or restrain any dog for which a dog license is required which is found without such tag attached.
- (7) Notwithstanding the foregoing, every dog specifically trained to lead blind or deaf persons is exempt from the dog license tax, and every person owning such a dog shall receive annually a free dog license from the Village Treasurer upon application therefor.

(b) **Kennel Licenses.**

- (1) Any person who keeps or operates a kennel may, instead of the license tax for each dog required by this Chapter, apply for a kennel license for the keeping or operating of the kennel. Such person shall pay for the license year a license tax as prescribed in Section 1-3-1 for a kennel of twelve (12) or fewer dogs plus an additional fee for each dog in excess of twelve (12). Upon payment of the required kennel license tax and, if required by the Village Board, upon presentation of evidence that all dogs over five (5) months of age are currently immunized against rabies, the Village Treasurer shall issue the kennel license and a number of tags equal to the number of dogs authorized to be kept in the kennel. Kennels may only be located in residential areas following a public hearing and approval by the Village Board; the Board may attach conditions to such approval as a conditional use under the Village's Zoning Code.
- (2) The owner or keeper of a kennel shall keep at all times a kennel license tag attached to the collar of each dog over five (5) months old kept by the owner or keeper under

a kennel license but this requirement does not apply to a show dog during competition, to a dog securely confined indoors or to a dog securely confined in a fenced area. These tags may be transferred from one dog to another within the kennel whenever any dog is removed from the kennel. The rabies vaccination tag or substitute tag shall remain attached to the dog for which it is issued at all times but this requirement does not apply to a show dog during competition, to a dog securely confined indoors or to a dog securely confined in a fenced area. No dog bearing a kennel tag shall be permitted to stray or to be taken anywhere outside the limits of the kennel unless the dog is in leash or temporarily for the purposes of hunting, breeding, trial, training or competition.

- (3) The term "kennel" means any establishment wherein or whereon more than three (3) dogs are kept.
- (4) No kennel license shall be issued to the keeper or operator of a kennel who fails to provide proper food and drink and proper shelter for the dogs in said kennel or who neglects or abandons said dogs. Designated officials shall investigate any complaints regarding the failure to maintain proper standards or investigate any kennel premises upon his/her own initiative. Expressly incorporated by reference in this Section as minimum standards for kennel keepers or operator are the relevant provisions of Ch. 951, Wis. Stats.
- (5) A condition of a kennel license shall be that the licensed premises may be entered and inspected at any reasonable hour by appropriate Village officials without any warrant, and the application for a license hereunder shall be deemed a consent to this provision. Any refusal to permit such inspection shall automatically operate as a revocation of any license issued hereunder and shall be deemed a violation of this Section. Should any kennel be found to constitute a public nuisance, the license shall be revoked and the nuisance abated pursuant to Village ordinances.

State Law Reference: Sec. 174.053, Wis. Stats.

Sec. 7-1-4 Late Fees.

The Village Treasurer shall assess and collect a late fee as prescribed by the County from every owner of a dog five (5) months of age or over if the owner failed to obtain a license prior to April 1 of each year, or within thirty (30) days of acquiring ownership of a licensable dog or if the owner failed to obtain a license on or before the dog reached licensable age. Said late fee shall be charged in addition to the required license fee.

Sec. 7-1-5 Rabies Quarantine.

- (a) **Dogs and Cats Confined.** If a district is quarantined for rabies, all dogs and cats within the Village shall be kept securely confined, tied, leashed or muzzled. Any dog or cat not confined, tied, leashed or muzzled is declared a public nuisance and may be impounded.

All officers shall cooperate in the enforcement of the quarantine. The Village Administrator shall promptly post in at least three (3) public places in the Village notices of quarantine.

- (b) **Exemption of Vaccinated Dog or Cat from Village Quarantine.** A dog or cat which is immunized currently against rabies, as evidenced by a valid certificate of rabies vaccination or other evidence, is exempt from the Village quarantine provisions of Subsection (a) if a rabies vaccination tag or substitute tag is attached to the dog's or cat's collar.
- (c) **Quarantine or Sacrifice of an Animal Suspected of Biting a Person or Being Infected or Exposed to Rabies.**
 - (1) **Quarantine or sacrifice of dog or cat.** An officer or animal warden shall order a dog or cat quarantined if the officer has reason to believe that the animal bit a person, is infected with rabies or has been in contact with a rabid animal. If a quarantine cannot be imposed because the dog or cat cannot be captured, the officer may kill the animal. The officer shall attempt to kill the animal in a humane manner and in a manner which avoids damage to the animal's head.
 - (2) **Sacrifice of other animals.** An officer may order killed or may kill an animal other than a dog or cat if the officer has reason to believe that the animal bit a person or is infected with rabies.
- (d) **Quarantine of Dog or Cat.**
 - (1) **Delivery to isolation facility or quarantine on premises of owner.** An officer or animal warden who orders a dog or cat to be quarantined shall deliver the animal or shall order the animal delivered to an isolation facility as soon as possible but no later than twenty-four (24) hours after the original order is issued or the officer may order the animal to be quarantined on the premises of the owner if the animal is immunized currently against rabies as evidenced by a valid certificate of rabies vaccination or other evidence.
 - (2) **Health risk to humans.** If a dog or cat is ordered to be quarantined because there is reason to believe that the animal bit a person, the custodian of an isolation facility or the owner shall keep the animal under strict isolation under the supervision of a veterinarian for at least ten (10) days after the incident occurred. In this paragraph, "supervision of a veterinarian" includes, at a minimum, examination of the animal on the first day of isolation, on the last day of isolation and on one (1) intervening day. If the observation period is not extended and if the veterinarian certifies that the dog or cat has not exhibited any signs of rabies, the animal may be released from quarantine at the end of the observation period.
 - (3) **Risk to animal health.**
 - a. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal and if the dog or cat is not currently immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for one hundred eighty (180) days. The owner shall have the animal vaccinated against rabies between one

- hundred fifty-five (155) and one hundred sixty-five (165) days after the exposure to a rabid animal.
- b. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal but if the dog or cat is immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for sixty (60) days. The owner shall have the animal revaccinated against rabies as soon as possible after exposure to a rabid animal.
- (4) **Destruction of a dog or cat exhibiting symptoms of rabies.** If a veterinarian determines that a dog or cat exhibits symptoms of rabies during the original or extended observation period, the veterinarian shall notify the owner and the officer who ordered the animal quarantined and the officer or veterinarian shall kill the animal in a humane manner and in a manner which avoids damage to the animal's head. If the dog or cat is suspected to have bitten a person, the veterinarian shall notify the person or the person's physician.
- (e) **Delivery of Carcass; Preparation; Examination by Laboratory of Hygiene.** An officer who kills an animal shall deliver the carcass to a veterinarian or local health department. The veterinarian or local health department shall properly prepare and package the head of the animal in a manner to minimize deterioration, arrange for delivery by the most expeditious means feasible of the head of the animal to the State Laboratory of Hygiene and dispose of or arrange for the disposal of the remainder of the carcass in a manner which minimizes the risk or exposure to any rabies virus. The Laboratory of Hygiene shall examine the specimen and determine if the animal was infected with rabies. The State Laboratory of Hygiene shall notify the Village, the veterinarian or local health department which prepared the carcass and, if the animal is suspected to have bitten a person, that person or the person's physician.
- (f) **Cooperation of Veterinarian.** Any practicing veterinarian who is requested to be involved in the rabies control program by an officer is encouraged to cooperate in a professional capacity with the Village, the Laboratory of Hygiene, the local health department, the officer involved and, if the animal is suspected to have bitten a person, the person's physician.
- (g) **Responsibility for Quarantine and Laboratory Expenses.** The owner of an animal is responsible for any expenses incurred in connection with keeping the animal in an isolation facility, supervision and examination of the animal by a veterinarian, preparation of the carcass for laboratory examination and the fee for the laboratory examination. If the owner is unknown, the county is responsible for these expenses.

Sec. 7-1-6 Restrictions on Keeping of Dogs, Cats, Fowl and Other Animals.

- (a) **Restrictions.** It shall be unlawful for any person within the Village of Butler to own, harbor or keep any dog or cat which:

- (1) Habitually pursues any vehicle upon any public street, alley or highway in the Village.
- (2) Assaults or attacks any person or destroys property.
- (3) Is at large within the limits of the Village.
- (4) Habitually barks or howls to the annoyance of any person or persons. (See Section 7-1-12.)
- (5) Kills, wounds or worries any domestic animal.
- (6) Is known by such person to be infected with rabies or to have been bitten by an animal known to have been infected with rabies.
- (7) In the case of a dog, is unlicensed.
- (8) Is tied or leashed in a manner that prohibits or impairs the reading of utility meters.

(b) **Vicious Dogs and Animals.**

- (1) A "vicious dog or other animal" shall be defined as follows: Any dog or other animal shall be deemed and be presumed to be vicious if, at any time, it bites and inflicts a serious injury to any person or persons two (2) or more times during the dog's or animal's life under unprovoked circumstances and while off the dog's or animal owner's, keeper's or caretaker's premises or property. If the dog or other animal inflicts serious injury in a manner other than biting, said dog or other animal shall also be deemed and presumed to be vicious under this Section.
- (2) A "serious injury" shall be defined as any abrasions, bruising, cuts, broken bones, lacerations, internal injuries, torn or pulled ligaments or muscles, head injuries, or any other such similar condition.
- (3) No vicious dog or other animal as defined herein shall be allowed to be owned, kept, harbored, maintained, or cared for within the Village of Butler corporate limits, by any person or legal entity.

(c) **Penalty for Keeping Vicious Dogs or Animals in Violation of Subsection (b).**

- (1) Any person convicted of violating Subsection (b) above shall pay a forfeiture of Five Hundred Dollars (\$500.00) together with all costs and assessments. Each day that a person owns, harbors, keeps, maintains or cares for any vicious dog or other animal in violation of this Section may be deemed a separate and distinct violation, subject to separate citations and convictions. Furthermore, any violation of Subsection (b) above shall result in a further penalty of having the subject animal or dog impounded by any law enforcement or animal control officer of the Village of Butler, or any law enforcement or animal control officer of any jurisdiction authorized by the Village of Butler to enforce or effectuate the Village of Butler's ordinances.
- (2) In the event that any vicious dog or animal has been impounded, said dog's or animal's owner shall be required to make arrangements to have said animal removed from the corporate limits of the Village of Butler within seven (7) days of impoundment. In the event any impounded animal has not had arrangements made to remove said animal from the corporate limits of the Village of Butler within said seven (7) day period, any law enforcement officer or animal control officer for the Village of Butler shall be authorized to destroy said animal.

(d) **Potentially Dangerous Dog or Other Animal.**

- (1) **Definitions.** "Potentially dangerous dog or other animal" means the following:
 - a. Any dog or other animal which, when unprovoked, on two (2) separate occasions within the immediate prior thirty-six (36) month period, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the dog are off the property of the owner or keeper of the dog.
 - b. Any dog or other animal which, when unprovoked, bites a person, causing a less severe injury than is defined in Subsection (b)(2) above.
 - c. Any dog or other animal which, when unprovoked, on two (2) separate occasions within the immediate prior thirty-six (36) month period, has killed, seriously bitten, inflicted injury or otherwise caused injury to a domestic animal off the property of the owner or keeper of the dog.
- (2) **Restrictions and Rules Regarding Potentially Dangerous Dogs or Animals.**
 - a. If a law enforcement or animal control officer for the Village of Butler or any other law enforcement agency having jurisdiction and authority to enforce this Section, has investigated and determined that there exists probable cause to believe that a dog or other animal which is owned, harbored, kept or cared for within the Village of Butler corporate limits is potentially dangerous as that term is defined herein, the Chief of Police or animal control officer for the Village of Butler or his/her designee, shall petition the Village Board for the Village of Butler, for a hearing for the purpose of determining whether or not the dog or other animal in question, should be declared potentially dangerous. Whenever possible, any complaint received from a member of the public which serves as part of the evidentiary basis for the animal control officer or law enforcement officer to find probable cause, shall be sworn to and verified by the complainant and shall be attached to the aforementioned petition. Notice of the hearing before the Village Board shall be given to the owner, caretaker or keeper of the dog or animal in question no less than seven (7) days prior to said hearing, with said notice, together with a copy of the petition, and all sworn complaints to be either served personally, or by first class mail with return receipt requested. All hearings under this Section shall be open to the public.
 - b. The hearing body, which shall be the Village Board for the Village of Butler, may admit all relevant documents and testimony into evidence including incident reports and affidavits of witnesses, photographs, and personal testimony. The Village Board for the Village of Butler shall be the exclusive trier of the issue of whether a dog or other animal is determined to be potentially dangerous. For the Village Board of the Village of Butler to determine that a dog or other animal is potentially dangerous, there must be a preponderance of the evidence to establish the same.
 - c. Any owner, harborer, keeper, caretaker, or other interested party who is aggrieved by any decision of the Village Board under this Section shall have the right to

appeal the same by filing an action for certiorari with the Circuit Court no more than thirty (30) days from the date that said aggrieved person had received written notice of the Village Board's decision on whether a dog or other animal is potentially dangerous.

- d. After the hearing conducted pursuant to Section 7-1-6(d)(2)a above, the owner, keeper, harbinger or caretaker of the dog or other animal shall be notified in writing of the determination and orders issued, either personally or by first class mail return receipt requested. If a determination is made that a dog or other animal is potentially dangerous as herein provided, the owner, keeper, harbinger or caretaker shall comply with Section 7-1-6(d)(2)h and i in accordance with the time schedule established by the chief law enforcement officer or animal control officer of the Village of Butler, but in no case more than thirty (30) days after the date of the determination, or thirty-five (35) days if the notice of the determination is mailed to the owner, keeper, harbinger or caretaker of the dog or other animal.
- e. No dog or other animal may be declared potentially dangerous if any injury or damage is sustained by a person who, at the time the injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner, keeper, harbinger or caretaker of the dog or other animal, or was teasing, tormenting, abusing, or assaulting the dog or other animal, or was committing or attempting to commit a crime. No dog or other animal may be declared potentially dangerous if the dog or other animal was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack or assault. No dog or other animal may be declared potentially dangerous if an injury or damage was sustained by a domestic animal which, at the time of the injury, or damage was sustained, was teasing, tormenting, abusing or assaulting the dog or other animal.
- f. No dog or other animal may be declared potentially dangerous if the injury or damage to a domestic animal was sustained while the dog was working as a hunting dog, herding dog, or predator control dog on the property of or under the control of its owner, keeper, harbinger or caretaker, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog.
- g. No dog or other animal may be declared potentially dangerous if the injury or damage to another domestic animal was sustained while on the property or premises of the owner, harbinger, keeper or caretaker of the dog or other animal, and the injured domestic dog or animal was upon the property not owned or maintained by the owner of the injured or damaged domestic animal.
- h. All potentially dangerous dogs or other animals shall be properly licensed and vaccinated. The licensing authority for the Village of Butler shall include the potentially dangerous designation in the registration records of the dog, either

after the owner or keeper of the dog has agreed to the designation or the Village Board, after hearing, has determined the designation applies to the dog. The Village of Butler may charge a potentially dangerous dog fee in addition to the regular licensing fee as to provide for the increased cost of maintaining the records of the dog.

- i. A potentially dangerous dog or other animal, while on the owner's property, shall, at all times, be kept indoors or in a securely fenced yard from which the dog cannot escape and into which children cannot trespass. A potentially dangerous dog or other animal may be off the owner's premises only if it is restrained by a substantial leash, of appropriate length, and muzzled, and if it is under the control and supervision of a responsible adult while being restrained by said leash and muzzle.
 - j. If a potentially dangerous dog or other animal dies, or is sold, transferred or permanently removed from the Village of Butler where the owner, harborer, keeper or caretaker so resides, said person who owns, keeps, harbors, or caretakes a potentially dangerous dog or other animal shall notify the chief law enforcement officer for the Village of Butler or the animal control officer of the change in condition or new location of the potentially dangerous dog or other animal in writing within forty-eight (48) hours of said dog or other animal's remove.
- (e) **Penalty for Violations of Subsection (d)(2).** Any person or entity convicted of violating Section 7-1-6(d)(2) shall pay a forfeiture of Two Hundred Fifty Dollars (\$250.00), together with all costs and assessments. Each day that a person owns, harbors, keeps, maintains or cares for any potentially dangerous dog or other animal in violation of Section 7-1-6(d)(2), may be deemed separate and distinct violations, subject to separate citations and convictions. Furthermore, any violation of Section 7-1-6(d)(2) shall result in a further penalty of having the subject animal or dog impounded by any law enforcement or animal control officer of the Village of Butler, or any law enforcement or animal control officer of any jurisdiction authorized by the Village of Butler to enforce or effectuate the Village of Butler's ordinances, may impound any dog or other animal which is subject to Section 7-1-6(e)(2). In the event that any restricted or prohibited animal or other vicious or potentially vicious animal or dog has been impounded, said dog's or animal's lawful owner shall be required to make arrangements to have said animal removed from the corporate Village of Butler limits within seven (7) days of impoundment. In the event any impounded animal has not had arrangements made to lawfully remove said animal from the corporate Village limits within said seven (7) day period, any law enforcement officer or animal control officer for the Village of Butler shall be authorized to destroy said animal.
- (f) **Unleashed Dogs or Other Animals Running at Large.**
- (1) No owner, keeper, harborer or caretaker of any dog or other animal shall permit the same to be unleashed or unrestrained at any time said dog or other animal is not on the owner's, keeper's, harborer's, or caretaker's property or premises and which is upon

any public street, alley, right-of-way or any school ground, public park, cemetery or other public or private property without the permission of the owner or occupier of the property.

- (2) A dog or other animal which is leashed or otherwise restrained by any device that is less than ten (10) feet in length, which is of sufficient strength to restrain and control said dog or other animal, and is held by a person competent to govern and control said animal, who has obtained the age of ten (10) years or more, and is able to prevent said dog or animal from annoying or worrying pedestrians or from trespassing on private or public property. Furthermore, a dog or other animal is not unleashed or uncontrolled and at large if it is properly restrained within a motor vehicle.
 - (3) Any person or entity who violates this Subsection (f) shall be subject to a forfeiture of not less than Twenty-five Dollars (\$25.00) and not more than One Hundred Dollars (\$100.00), together with any impoundment under Section 7-1-7.
- (g) **Owner's Liability for Damage Caused by Dogs or Other Animals; Penalties.** The provisions of Sec. 174.02, Wis. Stats., relating to the owner's liability for damage caused by dogs and other animals together with the penalties therein set forth are hereby adopted and incorporated herein by reference.
- (h) **Animals Restricted on Public Grounds and Cemeteries.** No dog or cat shall be permitted in any public playground, school grounds, public park, or swimming area within the Village. Dogs and cats are prohibited from being in cemeteries. Every dog specially trained to lead blind persons shall be exempt from this Section.

Sec. 7-1-7 Impoundment of Animals.

- (a) **Animal Control Agency.**
- (1) The Village of Butler may contract with or enter into an agreement with such person, persons, organization or corporation to provide for the operation of an animal shelter, impoundment of stray animals, confinement of certain animals, disposition of impoundment animals and for assisting in the administration of rabies vaccination programs.
 - (2) The Village of Butler does hereby delegate to any such animal control agency the authority to act pursuant to the provisions of this Section.
- (b) **Impounding of Animals.** In addition to any penalty hereinafter provided for a violation of this Chapter, A law enforcement or animal control officer may impound any dog, cat or other animal which habitually pursues any vehicle upon any street, alley or highway of this Village, assaults or attacks any person, is at large within the Village, habitually barks, cries or howls, kills, wounds or worries any domestic animal or is infected with rabies. In order for an animal to be impounded, the impounding officer must see or hear the violation of this Section or have in his/her possession a signed statement of a complaining witness made

under oath alleging the facts regarding the violation and containing an agreement to reimburse the Village for any damages it sustains for improper or illegal seizure.

- (c) **Claiming Animal; Disposal of Unclaimed Animals.** After seizure of animals under this Section by a law enforcement or animal control officer, the animal shall be impounded. The officer shall notify the owner, personally or through the U.S. Mail, if such owner be known to the officer or can be ascertained with reasonable effort, but if such owner be unknown or unascertainable, the officer shall post written notice in three (3) public places in the Village, giving a description of the animal, stating where it is impounded and the conditions for its release, after the law enforcement officer or animal control officer has taken such animal into his/her possession. If within seven (7) days after such notice the owner does not claim such animal, the officer may dispose 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 the Animal Shelter for ten (10) days for observation purposes. Within such times, the owner may reclaim the animal upon payment of impoundment fees, such fees to be established by resolution of the Village Board or impounding agency. No animal shall be released from the pound without being properly licensed if so required by state law or Village Ordinance.
- (d) **Sale of Impounded Animals.** If the owner doesn't reclaim the animal within seven (7) days, the animal control officer may sell the animal to any willing buyer.
- (e) **Village Not Liable for Impounding Animals.** The Village and/or its animal control agency shall not be liable for the death of any animal which has been impounded or disposed of pursuant to this Section.

Sec. 7-1-8 Duty of Owner in Case of Dog or Cat Bite.

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

Sec. 7-1-9 Pit Bulls and Other Regulated Dogs and Animals.

- (a) **Keeping of Certain Animals Prohibited.** Except as provided herein, it shall be unlawful to keep, harbor, own or in any way possess within the corporate limits of the Village of Butler:
- (1) **Exotic Animals.** Any warm-blooded, carnivorous or omnivorous, wild or exotic animal including but not limited to non-human primates, raccoons, skunks, foxes and wild and exotic cats.

- (2) **Poisonous Animals.** Any animal having poisonous bites.
 - (3) **Regulated Dogs.** Any regulated dog provided that regulated dogs complying with the provisions of this Section may be kept within the Village subject to the standards and requirements set forth in Subsection (b) of this Section. There shall be a presumption that any dog which substantially conforms or exhibits the distinguishing characteristics or substantially conforms to the standards describing the physical characteristics as recognized by the American Kennel Club, the United Kennel Club, or Continental Kennel Club for a particular breed which is regulated by this Section, shall be deemed a dog of the breed so regulated. "*Regulated dog*" as that term is used in this Section is defined to mean:
 - a. The Staffordshire bull terrier breed of dog;
 - b. The American pit bull terrier breed of dog;
 - c. The American Staffordshire terrier breed of dog;
 - d. The Perro de Presa Canario breed of dog, otherwise known as Presa Canario, also known as Canary Dog or Presa dog.
 - e. The Rottweiler breed of dog.
 - f. The German Shepherd breed of dog.
 - g. The Rhodesian Ridgeback breed of dog.
 - h. The Mastiff breed of dog.
 - i. Any dog which has the appearance and characteristic of being predominantly of any of the above-listed breed or breeds of dogs.
- (b) **Keeping of Regulated Dogs.** The provisions of Subsection (a) are not applicable to parties who own, keep or harbor regulated dogs within the Village of Butler, provided there is full compliance with the following conditions:
- (1) **Leash and Muzzle.** No person shall permit a regulated dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four (4) feet in length. No person shall permit a regulated dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all regulated dogs on a leash outside the animal's kennel or pen must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.
 - (2) **Confinement.** All regulated dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel except when leashed and muzzled as provided in Subsection (b)(1). All pens or kennels shall comply with all zoning, building and health regulations of the Village and shall be kept in a clean and sanitary condition.
 - (3) **Confinement Indoors.** No regulated dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition.
 - (4) **Insurance.**
 - a. All owners, keepers or harborers of regulated dogs must within thirty (30) days of the effective date of this Section provide proof to the Administrator of public liability insurance in the amounts of:

1. Five Hundred Thousand Dollars (\$500,000.00) for bodily injury or death to any one person with the limit, however, of One Million Dollars (\$1,000,000.00) for bodily injury or death resulting from any one incident/accident; and
 2. One Million Dollars (\$1,000,000.00) for property damage resulting from any one incident/accident.
- b. The Village of Butler shall be named as an additional insured under such insurance and a copy of the current in-force policy shall be deposited with the Administrator. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days' written notice is first given to the Administrator.
- (5) **Registration.** All owners, keepers or harborers of regulated dogs shall within thirty (30) days after the effective date of this Section register said dog with the Village by filing with the Village Administrator two (2) color photographs of the dog clearly showing the color and approximate size of the dog.
- (6) **Reporting Requirements.** All owners, keepers or harborers of registered regulated dogs must within ten (10) days of the incident, report the following information in writing to the Village Administrator:
- a. The removal from the Village or death of a registered regulated dog;
 - b. The birth of offspring of a registered regulated dog;
 - c. The new address of a registered regulated dog should the dog be moved within the Village of Butler.
 - d. If the registered regulated dog is sold, the name and address of the new owner.
- (7) **Animals Born of Registered Dogs.** All offspring born of registered regulated dogs registered within the Village must be removed from the Village within six (6) weeks after the birth of said animal.
- (8) **Failure to Comply.** It shall be unlawful for the owner, keeper or harbinger of a registered regulated dog registered with the Village to fail to comply with the requirements and conditions set forth in this Section.

Sec. 7-1-10 Wolf/Dog Hybrid Regulation and Confinement.

- (a) **Definitions.** A "wolf/dog hybrid" is defined as any cross-breed resulting from the mating of a domesticated dog and a wolf, coyote jackal or dingo or resulting from the mating of any wolf/dog hybrid and another wolf/dog hybrid or a domesticated dog. As used herein:
- (1) **Canine Animal.** Includes all members of the family *canidae* except foxes.
 - (2) **Domesticated Dog.** *Canis familiaris*.
 - (3) **Wolf.** Includes both *canis lupus* and *canis niger*.
 - (4) **Coyote.** *Canis latrans*.

- (5) **Jackal.** *Canis Aurens.*
- (6) **Dingo.** *Canis dingo.*
- (b) **Prohibition on Unregistered Animals.** No person shall harbor, keep or maintain within the Village of Butler any wolf/dog hybrid which has not been registered pursuant to Subsection (k) below on or before January 30, 2003. This prohibition shall not apply to animals being transported through the limits of the Village of Butler within a one (1) hour period of time. A pup born to a female wolf/dog hybrid so registered shall be removed from the Village of Butler before it has reached the age of five (5) months. Wolf/dog hybrids permitted in the Village of Butler shall be confined as set forth in this Section.
- (c) **Removal; Impoundment.** Whenever any person is charged with harboring, keeping or maintaining a wolf/dog hybrid in the Village of Butler which has not been registered on or before January 30, 2003, that person shall, to the satisfaction of the Court, remove said animal from the Village of Butler until a trial on the citation. If said animal has not been so removed within forty-eight (48) hours of the service of the citation, the said animal may be impounded as directed by the Police Department until the trial on the citation. In that case, the owner of any such animal shall pay all expenses incurred due to such impoundment, including but not limited to the cost of shelter, food, handling and veterinary care. If it is determined by plea or trial that said animal is a wolf/dog hybrid not registered pursuant to Subsection (k) on or before January 30, 2003, it shall be removed from and not returned to the Village of Butler.
- (d) **Confinement Requirements.** The owner of any wolf/dog hybrid permitted to be kept in the Village of Butler, and the owner of any property on which such wolf/dog hybrid is kept, shall see that the animal is at all times confined according to the minimum requirements of this Section. A wolf/dog hybrid may be kept only in enclosures that meet the following minimum requirements:
 - (1) The first enclosure shall be constructed of not less than nine- (9-) gauge galvanized chain link fencing, with mesh openings not greater than two (2) inches, which shall be securely anchored by stainless steel or copper rings, placed at intervals not greater than six (6) inches apart, to a poured concrete base as described herein. Such enclosure shall be not less than five hundred (500) square feet in area, plus two hundred fifty (250) square feet for each additional canine animal kept therein. Such enclosure shall be the location in which any wolf/dog hybrid is primarily kept.
 - (2) The first enclosure shall extend to a height of not less than eight (8) feet, and shall be surrounded from ground level to a height of not less than four (4) feet by one-quarter (1/4) inch galvanized mesh screening.
 - (3) The first enclosure shall have a full top, which shall also be constructed of not less than nine- (9-) gauge chain link fencing with mesh openings not greater than two (2) inches, and which shall be securely anchored to the sides of the enclosure. The entire base of the first enclosure shall be a poured concrete slab floor at least four (4) inches thick.

- (4) The second enclosure shall consist of a securely anchored fence at least six (6) feet in height, which shall entirely surround the first enclosure, and no part of which shall be nearer than six (6) feet in height, which shall entirely surround the first enclosure, and no part of which shall be nearer than six (6) feet from any part of the first enclosure. Said fence shall be a "vision barrier" fence, no more than five percent (5%) open for through vision, except, however, that the portion of said fence facing the dwelling of the owner of said animals or of the property on which they are kept shall be constructed of not less than nine- (9-) gauge chain link fencing, to provide for observation of said animals. If any portion of said fence is made of wood, the finished or painted side thereof shall face outward from the first enclosure.
 - (5) Both enclosures shall be kept locked with case hardened locks at all times when an animal is unattended by an adult. The first (innermost) enclosure shall have double entrance gates or doors situated and constructed in such a fashion as to prevent an animal from escaping past an open gate or door. The gates or doors providing access to the first (innermost) enclosure shall be spring-loaded, so as to shut on their own accord behind anyone entering that enclosure.
 - (6) Within the first enclosure, shelter shall be provided adequate to protect the animals confined against weather extremes. The first enclosure shall be regularly cleaned to remove excreta and other waste materials, dirt and trash, in a manner adequate to minimize health hazards and avoid offensive odors.
 - (7) The above described enclosures shall be located in the rear yard of any property on which a wolf/dog hybrid is kept, as defined in the Village Zoning Code.
- (e) **Transportation and Muzzling of Animals.** A wolf/dog hybrid may be transported only if confined in a secure, locked container, covered with one-fourth (1/4) inch galvanized fine mesh screen. This paragraph shall not prohibit the walking of such animals, provided they are muzzled and restrained by a leather lead, at least one (1) inch in diameter and not exceeding three (3) feet in length, attached to a metal choker-type collar, under the control of an adult. The muzzle must be made in a manner that will not cause injury to the wolf/dog hybrid or unduly interfere with its vision or respiration, but will prevent it from biting any person or animal.
- (f) **Right of Inspection.** To insure compliance with this Section, any person possessing any registration papers, certificate, advertisement or other written evidence relating to the bloodlines or ownership of a canine animal found within the Village shall produce the same for inspection on demand of any law enforcement, conservation or public health officer or court.
- (g) **Limitation on Numbers.** No person shall own, harbor or keep in his/her possession on any one parcel of property more than three (3) wolf/dog hybrids over five (5) months of age at any one time, nor shall any person retain a litter or portion of a litter of wolf/dog hybrids longer than five (5) months.
- (h) **Veterinary Exception.** The foregoing provisions of this Section shall not apply to doctors of veterinary medicine in temporary possession of wolf/dog hybrids in the ordinary course of their practice.

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- (i) **Abandonment or Negligent Release.** No person shall willfully or negligently release or abandon a wolf/dog hybrid as defined herein within the Village.
- (j) **Nonconforming Enclosures.** As to any person keeping wolf/dog hybrids in existing enclosures in the Village of Butler on the date of passage of this Section, Subsection (d) shall take effect on January 30, 2003; for all other persons, said Subsection shall take effect and be in force from and after passage and publication as provided by law. The remaining provisions of this Section shall take effect and be in force from and after passage and publication as provided by law.
- (k) **Wolf/Dog Hybrid Registration.** All owners of any wolf/dog hybrid in the Village of Butler shall, on or before January 30, 2003, and annually thereafter on or before January 30th of each year, register such animal and provide a current color photograph of such animal with the Village Treasurer's office and pay a registration fee of Twenty-five Dollars (\$25.00). At the time of registration, each owner of any wolf/dog hybrid kept within the Village limits shall provide to the Village Treasurer proof of liability insurance in the amount of at least One Million Dollars (\$1,000,000.00) for any acts of property damage, personal injury or other liability incurred by virtue of any injury or damage inflicted by such wolf/dog hybrid. Such insurance shall name the Village of Butler as co-insured solely for the purpose of notice of cancellation of such insurance policy.
- (l) **Warning Sign.** The owner or keeper of a wolf/dog hybrid shall display on the premises on which such animal is kept signs warning that there is a wolf/dog hybrid on the property as provided herein. Such signs shall be visible and capable of being read within at least twenty (20) feet of their placement, but shall not be more than two (2) square feet in area, and shall state in bold, capital letters, on a white background, the following: "WARNING — WOLF/DOG HYBRIDS PRESENT". One such sign shall be placed in the front yard of any property on which any wolf/dog hybrid is kept, and additional such signs shall be placed on all gates or doors providing access through the second (outermost) enclosure required above.

Sec. 7-1-11 Animal Feces.

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

Sec. 7-1-12 Injury to Property by Animals.

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

Sec. 7-1-13 Barking Dogs or Crying Cats.

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

Sec. 7-1-14 Prohibited and Protected Animals, Fowl, Reptiles and Insects; Farm Animals.**(a) Protected Animals.**

- (1) **Possession and Sale of Protected Animals.** It shall be unlawful for any person, firm or corporation to possess with intent to sell or offer for sale, or buy or attempt to buy, within the Village any of the following animals, alive or dead, or any part or product thereof: all wild cats of the family felidae, polar bear (*thalarctos maritimus*), red wolf (*canis niger*), vicuna (*vicugna vicugna*), gray or timber wolf (*canis lupus*), sea otter (*enhydra lutris*), Pacific ridley turtle (*lepidochelys olivacea*), Atlantic green turtle (*chelonia mydas*), Mexican ridley turtle (*lepidochelys kempfi*).
- (2) **Compliance with Federal Regulations.** It shall be unlawful for any person, firm or corporation to buy, sell or offer for sale a native or foreign species or subspecies of mammal, bird, amphibian or reptile, or the dead body or parts thereof, which appears on the endangered species list designated by the United States Secretary of the Interior and published in the Code of Federal Regulations pursuant to the Endangered Species Act of 1969 (Public Law 135, 91st Congress).
- (3) **Regulating the Importation of Certain Birds.** No person, firm or corporation shall import or cause to be imported into this Village any part of the plumage, skin or dead body of any species of hawk, owl or eagle. This paragraph shall not be construed to forbid or restrict the importation or use of the plumage, skin, body or any part thereof

legally collected for use by the American Indians for ceremonial purposes or in the preservation of their tribal customs and heritage.

- (b) **Exceptions.** The provisions of Subsection (a) above shall not be deemed to prevent the lawful importation, possession, purchase or sale of any species by any public agency, institute of higher learning, persons holding federal permits, or by a person holding a Scientific Collectors Permit issued by the Secretary of the Department of Natural Resources of the state, or to any person or organization licensed to present a circus.
- (c) **Wild Animals; Prohibition on Keeping.** It shall be unlawful for any person to keep, maintain or have in his/her possession or under his/her control within the Village any poisonous reptile or any other dangerous or carnivorous wild animal, insect or reptile, any vicious or dangerous domesticated animal or any other animal or reptile of wild, vicious or dangerous propensities. Specifically, it shall be unlawful for any person to keep, maintain or have in his possession or under his/her control within the Village any of the following animals, reptiles or insects:
- (1) All poisonous animals and reptiles including rear-fang snakes.
 - (2) Apes: Chimpanzees (*Pan*); gibbons (*Hylobates*); gorillas (*Gorilla*); orangutans (*Pongo*); and siamangs (*Symphalangus*).
 - (3) Baboons (*Papoi*, *Mandrillus*).
 - (4) Bears (*Ursidae*).
 - (5) Bison (*Bison*).
 - (6) Cheetahs (*Acinonyx jubatus*).
 - (7) Crocodilians (*Crocodylia*), thirty (30) inches in length or more.
 - (8) Constrictor snakes.
 - (9) Coyotes (*Canis latrans*).
 - (10) Deer (*Cervidae*); includes all members of the deer family; for example, whitetailed deer, elk, antelope and moose.
 - (11) Elephants (*Elephas* and *Loxodonta*).
 - (12) Game cocks and other fighting birds.
 - (13) Hippopotami (*Hippopotamidae*).
 - (14) Hyenas (*Hyaenidae*).
 - (15) Jaguars (*Panthera onca*).
 - (16) Leopards (*Panthera pardus*).
 - (17) Lions (*Panthera leo*).
 - (18) Lynxes (*Lynx*).
 - (19) Monkeys, old world (*Cercopithecidae*).
 - (20) Ostriches (*Struthio*).
 - (21) Pumas (*Felis concolor*); also known as cougars, mountain lions and panthers.
 - (22) Rhinoceroses (*Rhinocero tidae*).
 - (23) Sharks (class *Chondrichthyes*).
 - (24) Snow leopards (*Panthera uncia*).

- (25) Tigers (*Panthera tigris*).
 - (26) Wolves (*Canis lupus*).
 - (27) Poisonous insects.
- (d) **Exceptions; Pet Shops.** The prohibitions of Subsection (c) above shall not apply where the creatures are in the care, custody or control of: a veterinarian for treatment; agricultural fairs; shows or projects of the 4-H Clubs; a display for judging purposes; an itinerant or transient carnival, circus or other show; dog or cat shows or trials; public or private educational institutions; licensed pet shops; zoological gardens; if:
- (1) Their location conforms to the provisions of the zoning ordinance of the Village.
 - (2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.
 - (3) Animals are maintained in quarters so constructed as to prevent their escape.
 - (4) No person lives or resides within one hundred (100) feet of the quarters in which the animals are kept.
- (e) **Farm Animals; Miniature Pigs.** Except as provided in Section 7-1-22 regarding miniature pigs and on properties zoned in an agricultural classification, no person shall own, keep, harbor or board any cattle, horses, ponies, swine, goats, sheep, fowl [more than two (2)] or rabbits [more than four (4)]. For purposes of this Subsection, the term "swine" shall not include any miniature pigs of either sex weighing less than eighty (80) pounds which are intended for and kept as domestic pets.

Sec. 7-1-15 Sale of Rabbits, Chicks or Artificially Colored Animals.

- (a) No person may sell, offer for sale, raffle, give as a prize or premium, use as an advertising device or display living chicks, ducklings, other fowl or rabbits that have been dyed or otherwise colored artificially.
- (b) (1) No person may sell, offer for sale, barter or give away living chicks, ducklings or other fowl without providing proper brooder facilities for the care of such chicks, ducklings or other fowl during the time they are in such person's care, custody or control.
- (2) No retailer, as defined in Sec. 100.30(2)(g), Wis. Stats., may sell, offer for sale, barter or give away living baby rabbits, baby chicks, ducklings or other fowl under two (2) months of age, in any quantity less than six (6), unless the purpose of selling these animals is for agricultural, wildlife or scientific purposes.

State Law Reference: Sec. 951.11, Wis. Stats.

Sec. 7-1-16 Providing Proper Food and Drink to Confined Animals.

- (a) No person owning or responsible for confining or impounding any animal may refuse or neglect to supply the animal with a sufficient supply of food and water as prescribed in this Section.

- (b) The food shall be sufficient to maintain all animals in good health.
- (c) If potable water is not accessible to the animals at all times, it shall be provided daily and in sufficient quantity for the health of the animal.

State Law Reference: Sec. 951.13, Wis. Stats.

Sec. 7-1-17 Providing Proper Shelter.

- (a) **Proper Shelter.** No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter as prescribed in this Section. In the case of farm animals, nothing in this Section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices in the particular county where the animal or shelter is located.
- (b) **Indoor Standards.** Minimum indoor standards of shelter shall include:
 - (1) **Ambient temperatures.** The ambient temperature shall be compatible with the health of the animal.
 - (2) **Ventilation.** Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.
- (c) **Outdoor Standards.** Minimum outdoor standards of shelter shall include:
 - (1) **Shelter from sunlight.** When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, "caged" does not include farm fencing used to confine farm animals.
 - (2) **Shelter from inclement weather.**
 - a. **Animals generally.** Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.
 - b. **Dogs.** If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size to accommodate the dog shall be provided.
- (d) **Space Standards.** Minimum space requirements for both indoor and outdoor enclosures shall include:
 - (1) **Structural strength.** The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.
 - (2) **Space requirements.** Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.
- (e) **Sanitation Standards.** Minimum standards of sanitation for both indoor and outdoor enclosures shall include periodic cleaning to remove excreta and other waste materials, dirt and trash so as to minimize health hazards.

State Law Reference: Sec. 951.14, Wis. Stats.

Sec. 7-1-18 Neglected or Abandoned Animals.**(a) Neglected or Abandoned Animals.**

- (1) No person may abandon any animal.
- (2) Any law enforcement or animal control officer may remove, shelter and care for an animal found to be cruelly exposed to the weather, starved or denied adequate water, neglected, abandoned or otherwise treated in a cruel manner and may deliver such animal to another person to be sheltered, cared for and given medical attention, if necessary. In all cases the owner, if known, shall be immediately notified and such officer, or other person, having possession of the animal shall have a lien thereon for its care, keeping and medical attention and the expense of notice.
- (3) If the owner or custodian is unknown and cannot, with reasonable effort, be ascertained or does not, within five (5) days after notice, redeem the animal by paying the expenses incurred, it may be treated as a stray and dealt with as such.
- (4) Whenever, in the opinion of any such officer, an animal is hopelessly injured or diseased so as to be beyond the probability of recovery, it shall be lawful for such officer to kill such animal and the owner thereof shall not recover damages for the killing of such animal unless he shall prove that such killing was unwarranted.
- (5) Section 951.16, Investigation of Cruelty Complaints, and Sec. 951.17, Wis. Stats., Expenses of Investigation, are hereby adopted by reference and made a part of this Chapter.

- (b) Injured Animals.** No person who owns, harbors or keeps any animal shall fail to provide proper medical attention to such animal when and if such animal becomes sick or injured. In the event the owner of such animal cannot be located, the Village or any animal control agency with whom the Village has an agreement or contract shall have the authority to take custody of such animal for the purpose of providing medical treatment, and the owner thereof shall reimburse the person or organization for the costs of such treatment.

State Law Reference: Secs. 951.15, 951.16 and 951.17, Wis. Stats.

Sec. 7-1-19 Cruelty to Animals and Birds Prohibited.

- (a) Acts of Cruelty Prohibited.** No person except a law enforcement or animal control officer in the pursuit of his duties shall, within the Village, shoot or kill or commit an act of cruelty to any animal or bird or disturb any bird's nests or bird's eggs.
- (b) Leading Animal From Motor Vehicle.** No person shall lead any animal upon a Village street from a motor vehicle or from a trailer or semi-trailer drawn by a motor vehicle.
- (c) Use of Poisonous and Controlled Substances.** No person may expose any pet animal owned by another to any known poisonous substance or controlled substance listed in

Sec. 961.14, Wis. Stats., whether mixed with meat or other food or not, where it is reasonable to anticipate the substance may be eaten by such animal or for the purpose of harming the animal. This Subsection shall not apply to poison used on one's own premises and designed for the purpose of rodent and pest extermination, nor the use of a controlled substance used in accepted veterinarian practice or in research by persons or organizations regularly engaged in such research.

- (d) **Use of Certain Devices Prohibited.** No person may directly or indirectly, or by aiding, abetting or permitting the doing thereof either put, place, fasten, use or fix upon or to any animal used or readied for use for a work purpose or for use in an exhibition, competition, rodeo, circus or other performance any of the following devices: a bristle bur, tack bur or like device; or a poling device used to train a horse to jump which is charged with electricity or to which have been affixed nails, tacks or other sharp points.
- (e) **Shooting at Caged or Staked Animals.** No person may instigate, promote, aid or abet as a principal, agent, employee, participant or spectator, or participate in the earnings from or intentionally maintain or allow any place to be used for the shooting, killing or wounding with a firearm or any deadly weapon any animal that is tied, staked out, caged or otherwise intentionally confined in a man-made enclosure, regardless of size.

Sec. 7-1-20 Limitation on Number of Dogs and Cats.

- (a) **Purpose.** The keeping of a large number of dogs and cats within the Village of Butler for a considerable period of time detracts from and, in many instances, is detrimental to, healthful and comfortable life in such areas. The keeping of a large number of dogs and cats is, therefore, declared a public nuisance.
- (b) **Number Limited.**
 - (1) No person or family shall own, harbor or keep in its possession more than a total of more than three (3) dogs or four (4) cats, or a total combination of four (4) thereof, in any residential unit without the prior issuance of a kennel license by the Village Board except that a litter of pups or kittens or a portion of a litter may be kept for not more than ten (10) weeks from birth.
 - (2) The above requirement may be waived with the approval of the Village Board when a kennel license has been issued by the Village pursuant to Section 7-1-3(b). Such application for waiver shall first be made to the Village Administrator.

Sec. 7-1-21 Trapping of Animals.

- (a) In the interest of public health and safety, it shall be unlawful for any person, in or on Village-owned land within the Village of Butler to set, place or tend any trap for the

purpose of trapping, killing, catching, wounding, worrying or molesting any animal, except by use of live box-type traps only. Live box-type traps shall be defined as those traps which capture and hold an animal in an alive and unharmed condition.

- (b) This Section shall prohibit the use of all traps other than live traps as described above, including, but not limited to, traps commonly known as leg traps, pan-type traps or other traps designed to kill, wound or close upon a portion of the body of an animal.
- (c) All such traps set, placed or tended shall comply with Chapter 29 of the Wisconsin Statutes as they relate to trapping.
- (d) Nothing in this Section shall prohibit or hinder the Village of Butler or its employees or agents from performing their official duties.

Sec. 7-1-22 Keeping of Bees.

It shall be unlawful for any person to establish or maintain any hive, stand or box where bees are kept or keep any bees in or upon any premises within the corporate limits of the Village of Butler.

Sec. 7-1-23 Vietnamese Potbellied Pigs.

- (a) **Definitions.** As used in this Section, the following words and phrases shall have the following meanings, unless the context clearly indicates that a different meaning is intended:
 - (1) "Vietnamese Potbellied Pig" shall mean a purebred Vietnamese Potbellied Pig registered through a North American Vietnamese Potbellied Pig Registry, which does not exceed one hundred (100) pounds in weight.
- (b) **License Required/Fee.** It is unlawful for any person, party, firm or corporation to keep or maintain within the Village of Butler limits a Vietnamese Potbellied Pig without first having obtained a license from the Village Treasurer and being in compliance with all provisions of this Section. The fee for a license issued hereunder or renewal thereof shall be Ten Dollars (\$10.00) per calendar year or fraction thereof. Excepted from the license requirement is any law enforcement agency or agency under contract with the Village to care for stray or unwanted animals.
- (c) **License/Application.**
 - (1) Any applicant for a license or renewal thereof under this Section shall file with the Village Treasurer a fully executed application on a form prescribed by the Village Treasurer, accompanied by the annual license fee.
 - (2) No licenses or renewal thereof shall issue hereunder until:
 - a. A Certificate of Purebred Registration is filed with the Village Treasurer.
 - b. There has been an inspection by a Village law enforcement officer or the Building Inspector of the premises being licensed and a determination by said

sanitarian that all requirements of this Section, and other applicable general and zoning ordinances, have been met.

- c. There is an adequate means of restraining animals from running at large or disturbing the peace.
- (3) Any license or renewal thereof issued hereunder shall be for a calendar year or portion thereof. Licenses must be renewed each calendar year on or before the 31st day of January. Licenses shall not be assignable or transferable either to another person, party, firm or corporation or for another location.
- (4) When issued, a license shall be kept upon the licensed premises and exhibited, upon request, to any Village personnel requesting to examine it and having authority to enforce this Section.
- (5) Only one (1) Vietnamese Potbellied Pig may be at any premises.
- (d) **License Requirements.** Licensee shall comply with the following as a condition of obtaining and maintaining a license:
 - (1) Animal feces to be collected on a daily basis and stored in a sanitary receptacle. Animals shall not be brought, or permitted to be, on property, public or private, not owned or possessed by the owner or person in charge of the animal, unless such person has in his/her immediate possession an appropriate device for scooping excrement and an appropriate depository for the transmission of excrement to a receptacle located upon property owned or possessed by such person.
 - (2) When sunlight is likely to cause overheating to discomfort, sufficient shade shall be provided to allow an animal kept outdoors to protect itself from the direct rays of the sun.
 - (3) An animal kept outdoors shall be provided with access to shelter to allow it to remain dry during rain or snow. Animals may be kept outdoors only if contained in a fenced enclosure sufficient for purposes of restraint.
 - (4) When the atmospheric temperature is less than fifty degrees Fahrenheit (50°F), an animal shall be kept indoors at a temperature no less than fifty degrees Fahrenheit (50°F), except for temporary ventures which do not endanger the animals health.
 - (5) An effective program for the control of insects, ectoparasites, avian and mammalian pests shall be established and maintained where a problem.
 - (6) Animals shall be fed and watered at least once a day, except as otherwise might be required to provide adequate veterinary care. The food shall be free from contamination, wholesome, palatable and of sufficient quality and nutritive value to meet the normal daily requirements for the condition and size of the animal. Food receptacles shall be accessible to the animal and shall be located so as to minimize contamination by excreta. Feeding pans shall be durable and kept clean. The food receptacles shall be cleaned daily. Disposable food receptacles may be used, but must be discarded after each feeding. Self feeders may be used for the feeding of dry food and they shall be sanitized as needed, but at least once per week, to prevent molding, deterioration or caking of feed.

- (7) Animals may not be permitted to exceed one hundred (100) pounds in weight.
 - (8) Animals shall be examined by a veterinarian within a period of sixty (60) days prior to a new license application being filed. The animal may be licensed only upon a written statement from a veterinarian as to:
 - a. The animal's weight.
 - b. The animal has received all recommended vaccinations and boosters.
 - c. The animal is asymptomatic respecting disease or has a disease which is not contagious and is receiving appropriate treatment.
 - d. The animal's tusks, if any, have been removed or trimmed so as not to endanger any person or animal.
 - e. The animal has passed a pseudorabies test administered in accordance with application state regulations.
 - (9) The animal shall not be permitted to run at large. "Run at large" shall mean the presence of an animal which is not on a leash of six (6) feet or less on any public property or thoroughfare or on any private property. An animal may be unleashed on private property, with the permission of the property owner, in a fenced enclosure sufficient for purposes of restraint. Animals which are not leashed in a motor vehicle shall not be deemed to "run at large" if secured in a manner as will prevent their escape therefrom.
 - (10) Animals shall not be kept in a manner as to disturb the peace of the neighborhood or of persons passing to and from upon the streets.
- (e) **Suspension, Revocation or Denial of Renewal of License.** The Village President or Chief of Police shall have the right to suspend or revoke any license once granted or deny annual renewal thereof when it appears that any license has violated any of the provisions of this Section, or any ordinance of the Village, or law, rule or regulation of the State of Wisconsin, involving cruelty or mistreatment of the animal, or the unlawful possession of the animal. Prior to the suspension or revocation of any license or the denial of an application for a renewal thereof, written notice of the reason for such action shall be given to the applicant or licensee by the officer. Such notice shall state that the applicant may pursue an appeal to the Public Safety Committee by filing a request within ten (10) days of such notice.

Sec. 7-1-24 Appeal of Abatement Order.

- (a) Any person who receives an abatement order under any provision of this Chapter may file an appeal to be heard by the Public Safety Committee of the Village Board. Any request for an appeal must be filed in writing with the Village Administrator within ten (10) days of the date of receiving such order.
- (b) The Committee shall meet within ten (10) days of receiving the Notice of Appeal and shall render its decision within ten (10) days of the hearing.

Sec. 7-1-25 Penalties.

- (c) Any person violating Sections 7-1-11, 7-1-12, 7-1-13, 7-1-14, 7-1-15, 7-1-16, 7-1-17, 7-1-18, 7-1-19, 7-1-20, 7-1-21, 7-1-22, 7-1-23 or 7-1-24 shall be subject to a forfeiture of not less than Fifty Dollars (\$50.00) and not more than Two Hundred Dollars (\$200.00). This Section shall also permit the Village Attorney to apply to the court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating any aspect of this Chapter.
- (d)
 - (1) Anyone who violates Sections 7-1-1, 7-1-2, 7-1-3, 7-1-4 and 7-1-5 of this Code of Ordinances or Chapter 174, Wis. Stats., shall be subject to a forfeiture of not less than Twenty-five Dollars (\$25.00) and not more than Two Hundred Dollars (\$200.00) for the first offense and not less than One Hundred Dollars (\$100.00) and not more than Four Hundred Dollars (\$400.00) for any subsequent offenses.
 - (2) An owner who refuses to comply with an order issued under Section 7-1-5 to deliver an animal to an officer, isolation facility or veterinarian or who does not comply with the conditions of an order that an animal be quarantined shall be fined not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) or imprisoned not more than sixty (60) days or both.
- (e) Any person who violates Sections 7-1-6 through 7-1-10 of this Code of Ordinances shall be subject to a forfeiture of not less than Twenty-five Dollars (\$25.00) and not more than One Thousand Dollars (\$1,000.00) for the first violation and not less than One Hundred Dollars (\$100.00) and not more than Two Thousand Five Dollars (\$2,500.00) for subsequent violations.
- (f) Each day that a violation of this Chapter continues shall be deemed a separate violation. Any dog found to be the subject of a violation of this Section shall be subject to immediate seizure, impoundment and removal from the Village by Village officials in the event the owner or keeper of the dog fails to remove the dog from the Village. In addition to the foregoing penalties, any person who violates this Chapter shall pay all expenses including shelter, food, handling and veterinary care necessitated by the enforcement of this Chapter.

- 7-2-32** Duration
- 7-2-33** Operator's License Fee; Provisional or Temporary Licenses
- 7-2-34** Issuance or Denial of Operator's Licenses
- 7-2-35** Training Course
- 7-2-36** Display of License
- 7-2-37** Revocation of Operator's License
- 7-2-38 through**
- 7-2-39** Reserved for Future Use

Article C Penalties

- 7-2-40** Penalties

Article A: Fermented Malt Beverages and Intoxicating Liquor

Sec. 7-2-1 State Statutes Adopted.

The provisions of Chapter 125, Wis. Stats., relating to the sale of intoxicating liquor and fermented malt beverages, except provisions therein relating to penalties to be imposed, are hereby adopted by reference and made a part of this Chapter as if 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 Chapter. Any future amendment, revisions or modifications of the statutes incorporated herein are intended to be made a part of this Chapter in order to secure uniform statewide regulation of alcohol beverage control.

State Law Reference: Chapter 125, Wis. Stats.

Sec. 7-2-2 Definitions.

As used in this Chapter the terms "Alcoholic Beverages," "Intoxicating Liquors," "Principal Business," "Legal Drinking Age", "Premises," "Sell," "Sold," "Sale," "Restaurant," "Club," "Retailer," "Person," "Fermented Malt Beverages," "Wholesalers," "Retailers," "Operators," and "Non-Intoxicating Beverages" shall have the meaning given them by Chapter 125, Wis. Stats.

Sec. 7-2-3 License Required.

No person, firm or corporation shall vend, sell, deal or traffic in or have in his/her possession with intent to vend, sell, deal or traffic in or, for the purpose of evading any law or ordinance, give away any intoxicating liquor or fermented malt beverage in any quantity whatever, or cause the same to be done, without having procured a license as provided in this Chapter nor without complying with all the provisions of this Chapter, and all statutes and regulations applicable thereto, except as provided by Sections 125.16, 125.27, 125.28 and 125.51, Wis. Stats.

Sec. 7-2-4 Classes of Licenses.

- (a) **Retail "Class A" Intoxicating Liquor License.** A retail "Class A" intoxicating liquor license, when issued by the Village Administrator under the authority of the Village Board, shall permit its holder to sell, deal and traffic in intoxicating liquors only in original packages or containers and to be consumed off the premises so licensed.
- (b) **Retail "Class B" Intoxicating Liquor License.** A retail "Class B" intoxicating liquor license, when issued by the Village Administrator under authority of the Village Board,

shall permit its holder to sell, deal and traffic in intoxicating liquors to be consumed by the glass only on the premises so licensed and in the original package or container in multiples not to exceed four (4) liters at any one (1) time, to be consumed off the premises, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off the premises.

- (c) **Reserve "Class B" Licenses.** A Reserve "Class B" license means a license that is not granted or issued by the Village on December 1, 1997, and that is counted under Sec. 125.51(4)(br), Wis. Stats., which, if granted or issued, authorizes the sale of intoxicating liquor to be consumed by the glass only on the premises where sold, and also authorizes the sale of intoxicating liquor in the original package or container in multiples not to exceed four (4) liters at any one time, to be consumed off premises, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off the premises.
- (d) **Class "A" Fermented Malt Beverage Retailer's License.** A Class "A" retailer's fermented malt beverage license, when issued by the Village Administrator under the authority of the Village Board, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only for consumption away from the premises where sold and in the original packages, containers or bottles. Such license may be issued after July 1st. The license shall expire on the following June 30th.
- (e) **Class "B" Fermented Malt Beverage Retailer's License.**
 - (1) **License.** A Class "B" fermented malt beverage retailer's license, when issued by the Village Administrator under the authority of the Village Board, shall entitle the holder thereof to possess, sell or offer for sale, fermented malt beverages, either to be consumed upon the premises where sold or away from such premises. The holder may also sell beverages containing less than one-half (1/2) of a percentum of alcohol by volume, without obtaining a special license to sell such beverages. Such license may be issued after July 1st. The license shall expire on the following June 30th.
 - (2) **Application.** Class "B" licenses may be issued to any person qualified under Sec. 125.04(5), Wis. Stats. Such licenses may not be issued to any person acting as agent for or in the employ of another except that this restriction does not apply to a hotel or restaurant which is not a part of or located on the premises of any mercantile establishment, or to a bona fide club, society or lodge that has been in existence for at least six (6) months before the date of application. A Class "B" license for a hotel, restaurant, club, society or lodge may be issued in the name of an officer who shall be personally responsible for compliance with this Chapter. Except as provided in Sec. 125.31, Wis. Stats., Class "B" licenses may not be issued to brewers or fermented malt beverages wholesalers.
- (f) **Temporary Class "B" Fermented Malt Beverage License.**
 - (1) **License.** As provided in Sec. 125.26(1) and (6), Wis. Stats., temporary Class "B" fermented malt beverage licenses may be issued to bona fide clubs, to county or local

fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six (6) months before the date of application and to posts of veterans' organizations authorizing the sale of fermented malt beverages at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. A license issued to a county or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of fermented malt beverages from leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of fermented malt beverages from the stands while the fair is being held. Such license is valid for dates as approved by the Village Board.

- (2) **Application.** Application for such license shall be signed by the president or corresponding officer of the society or association making such application and shall be filed with the Village Administrator together with the appropriate license fee for each day for which the license is sought. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a forfeiture of Two Hundred Dollars (\$200.00) and will be ineligible to apply for a temporary Class "B" license for one (1) year. The license shall specify the hours and dates of license validity. The application shall be filed a minimum of fifteen (15) days prior to the meeting of the Village Board at which the application will be considered for events of more than three (3) consecutive days. If the application is for a license to be used in a Village park, the applicant shall specify the main point of sale facility.

(g) **Temporary "Class B" Wine License.**

- (1) **License.** Notwithstanding Sec. 125.68(3), Wis. Stats., temporary "Class B" licenses may be issued to bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six (6) months before the date of application and to posts of veterans' organizations authorizing the sale of wine containing not more than six percent (6%) alcohol by volume in an original package, container or bottle or by the glass if the wine is dispensed directly from an original package, container or bottle at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. No fee may be charged to a person who, at the same time, applies for a temporary Class "B" beer license under Sec. 125.26(6), Wis. Stats., or the same event. A license issued to a county or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of wine containing not more than six percent (6%) alcohol by volume from leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of wine containing not more than six percent (6%) alcohol by volume from the stands while the fair is being held.
- (2) **Application.** Application for such license shall be signed by the president or corresponding officer of the society or association making such application and shall

be filed with the Village Administrator together with the appropriate license fee for each day for which the license is sought. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a forfeiture of Two Hundred Dollars (\$200.00) and will be ineligible to apply for a temporary "Class B" wine license for one (1) year. The license shall specify the hours and dates of license validity. The application shall be filed a minimum of fifteen (15) days prior to the meeting of the Village Board at which the application will be considered for events of more than three (3) consecutive days. If the application is for a license to be used in a Village park, the applicant shall specify the main point of sale facility.

- (h) **Wholesaler's License.** A wholesaler's fermented malt beverage license, when issued by the Village Administrator under authority of the Village Board, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only in original packages or containers to dealers, not to be consumed in or about the premises of said wholesaler.
- (i) **Retail "Class C" Licenses.**
 - (1) In this Subsection "barroom" means a room that is primarily used for the sale or consumption of alcohol beverages.
 - (2) A "Class C" license authorizes the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold.
 - (3) A "Class C" license may be issued to a person qualified under Sec. 125.04(5), Wis. Stats., for a restaurant in which the sale of alcohol beverages accounts for less than fifty percent (50%) of gross receipts and which does not have a barroom if the municipality's quota prohibits the municipality from issuing a "Class B" license to that person. A "Class C" license may not be issued to a foreign corporation or a person acting as agent for or in the employ of another.
 - (4) A "Class C" license shall particularly describe the premises for which it is issued.

Cross Reference: Section 7-2-17.

Sec. 7-2-5 License Fees.

There shall be the following classes of licenses which, when issued by the Village Administrator under the authority of the Village Board after payment of the license fee and publication costs hereinafter specified shall permit the holder to sell, deal or traffic in intoxicating liquors or fermented malt beverages as provided in Section 7-2-4 of this Code of Ordinances and Chapter 125, Wis. Stats.:

- (a) **Class "A" Fermented Malt Beverages Retailer's License.** The annual fee for this license shall be as prescribed in Section 1-3-1. The fee for a license for less than twelve (12) months shall be prorated according to the number of months or fraction thereof for which the license is issued.

- (b) **Class "B" Fermented Malt Beverage License.** The annual fee for this license shall be as prescribed in Section 1-3-1. This license may be issued at any time for six (6) months in any calendar year, for which fifty percent (50%) of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued. The fee for a license for less than twelve (12) months shall be prorated according to the number of months or fraction thereof for which the license is issued.
- (c) **Temporary Class "B" Fermented Malt Beverage License.** The fee for this license shall be as prescribed in Section 1-3-1 per event.
- (d) **Temporary "Class B" Wine License.** The fee for this license shall be as prescribed in Section 1-3-1 per event. However, there shall be no fee if the Temporary Wine License is obtained along with a Temporary Fermented Malt Beverage License.
- (e) **Fermented Malt Beverage Wholesalers' License.** The annual fee for this license shall be as prescribed in Section 1-3-1.
- (f) **"Class A" Intoxicating Liquor Retailer's License.** The annual fee for this license shall be as prescribed in Section 1-3-1.
- (g) **"Class B" Intoxicating Liquor Retailer's License.** The annual fee for this license shall be as prescribed in Section 1-3-1. This license may be issued at any time for six (6) months in any calendar year, for which fifty percent (50%) of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued.
- (h) **Reserve "Class B" Intoxicating Liquor License.** The fee for an initial issuance of a Reserve "Class B" license shall be as prescribed in Section 1-3-1, except that the fee for the initial issuance of a Reserve "Class B" license to a bona fide club or lodge situated and incorporated in the state for at least six (6) years is the fee established in Section 7-2-5(g) for such a club or lodge. The annual fee for renewal of a Reserve "Class B" license is the fee established in Section 7-2-5(g).
- (i) **"Class C" Wine License.** The annual fee for this license shall be as prescribed in Section 1-3-1. The fee for less than twelve (12) months shall be prorated.

Sec. 7-2-6 Application for License.

- (a) **Contents.** Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on the form prescribed by the Wisconsin Department of Revenue and shall be sworn to by the applicant as provided by Secs. 887.01 to 887.04, Wis. Stats., and shall be filed with the Village Administrator not less than fifteen (15) days prior to the granting of such license. The premises shall be physically described to include every room and storage space to be covered by the license, including all rooms not separated by a solid wall or joined by connecting entrances.
- (b) **Corporations.** Such application shall be filed and sworn to by the applicant if an individual, by the president and secretary, of a corporation.

- (c) **Publication.** The Village Administrator shall publish each application for a Class "A", Class "B", "Class A", "Class B", or "Class C" license. There is no publication requirement for temporary Class "B" picnic beer licenses under Sec. 125.26, Wis. Stats., or temporary "Class B" picnic wine licenses under Sec. 125.51(10), Wis. Stats. The application shall be published once in the official Village newspaper, and the costs of publication shall be paid by the applicant at the time the application is filed, as determined under Sec. 985.08, Wis. Stats.
- (d) **Amending Application.** Whenever anything occurs to change any fact set out in the application of any Licensee, such Licensee shall file with the issuing authority a notice in writing of such change within ten (10) days after the occurrence thereof.
- (e) **Quota.**
 - (1) **Number of Class "A" Fermented Malt Beverages Licenses.** The number of persons and places that may be granted Class "A" Fermented Malt Beverages Licenses under this Chapter shall be and hereby is limited as follows: One such license may be granted to and issued for each three thousand (3,000) inhabitants, or fraction thereof, in the Village of Butler, such population to be determined by the last preceding national census or official estimate thereof made by the Bureau of Census of the United States Government.
 - (2) **Number of Class "B" Fermented Malt Beverages Licenses.** The number of persons and places that may be granted Class "B" Fermented Malt Beverages Licenses under this Chapter shall be and hereby is limited as follows: One such license may be granted to and issued for each five hundred (500) inhabitants, or fraction thereof, in the Village of Butler, such population to be determined by the last preceding national census or official estimate thereof made by the Bureau of Census of the United States Government.
 - (3) **Number of "Class B" Intoxicating Liquor Licenses.** The number of persons and places that may be granted retail "Class B" Intoxicating Liquor Licenses under this Chapter shall be and hereby is limited as follows: One such license may be granted to and issued for each five hundred (500) inhabitants, or fraction thereof, in the Village of Butler, such population to be determined by the last preceding national census or official estimate thereof made by the Bureau of Census of the United States Government.
 - (4) **Number of "Class A" Intoxicating Liquor Licenses.** The number of persons and places that may be granted "Class A" Intoxicating Liquor Licenses under this Chapter shall be and hereby is limited as follows: One such license may be granted to and issued for each three thousand (3,000) inhabitants, or fraction thereof, in the Village of Butler, such population to be determined by the last preceding national census or official estimate thereof made by the Bureau of Census of the United States Government.

Sec. 7-2-7 Qualifications of Applicants and Premises.

- (a) **Residence Requirements.** A retail Class "A" or Class "B" fermented malt beverage or "Class A" or "Class B" intoxicating liquor license shall be granted only to persons who are citizens of the United States and who have been residents of the State of Wisconsin continuously for at least ninety (90) days prior to the date of the application.
- (b) **Applicant to have Malt Beverage License.** No retail "Class B" intoxicating liquor license shall be issued to any person who does not have or to whom is not issued a Class "B" retailer's license to sell fermented malt beverages.
- (c) **Right to Premises.** No applicant will be considered unless he/she has the right to possession of the premises described in the application for the license period, by lease or by deed.
- (d) **Age of Applicant.** Licenses related to alcohol beverages shall only be granted to persons who have attained the legal drinking age.
- (e) **Corporate Restrictions.**
 - (1) No license or permit may be issued to any corporation unless the corporation meets the qualifications under Sec. 125.04(a)1 and 4 and (b), Wis. Stats., unless the agent of the corporation appointed under Sec. 125.04(6) and the officers and directors of the corporation meet the qualifications of Sec. 125.04(a)1 and 3 and (b) and unless the agent of the corporation appointed under Sec. 125.04(6) meets the qualification under Sec. 125.04(a)2. The requirement that the corporation meet the qualifications under Sec. 125.04(a)1 and (b) does not apply if the corporation has terminated its relationship with all of the individuals whose actions directly contributed to the conviction.
 - (2) Each corporate applicant shall file with its application for such license a statement by its officers showing the names and addresses of the persons who are stockholders together with the amount of stock held by such person or persons. It shall be the duty of each corporate applicant and Licensee to file with the Village Administrator a statement of transfers of stock within forty-eight (48) hours after such transfer of stock.
 - (3) Any license issued to a corporation may be revoked in the manner and under the procedure established in Sec. 125.12, Wis. Stats., when more than fifty percent (50%) of the stock interest, legal or beneficial, in such corporation is held by any person or persons not eligible for a license under this Chapter or under the state law.
- (f) **Sales Tax Qualification.** All applicants for retail licenses shall provide proof, as required by Sec. 77.61(11), Wis. Stats., that they are in good standing for sales tax purposes (i.e., hold a seller's permit) before they may be issued a license.
- (g) **Connecting Premises.** Except in the case of hotels, no person may hold both a "Class A" license and either a "Class B" license or permit, a Class "B" license or permit, or a "Class C" license for the same premises or for connecting premises. Except for hotels, if

either type of license or permit is issued for the same or connecting premises already covered by the other type of license or permit, the license or permit last issued is void. If both licenses or permits are issued simultaneously, both are void.

- (h) **Limitations on Other Business; Class "B" Premises.** No Class "B" license or permit may be granted for any premises where any other business is conducted in connection with the premises, except that this restriction does not apply if the premises for which the Class "B" license or permit is issued is connected to premises where other business is conducted by a secondary doorway that serves as a safety exit and is not the primary entrance to the Class "B" premises. No other business may be conducted on premises operating under a Class "B" license or permit. These restrictions do not apply to any of the following:
- (1) A hotel.
 - (2) A restaurant, whether or not it is a part of or located in any mercantile establishment.
 - (3) A combination grocery store and tavern.
 - (4) A combination sporting goods store and tavern in towns, villages and 4th class cities.
 - (5) A combination novelty store and tavern.
 - (6) A bowling alley or recreation premises.
 - (7) A club, society or lodge that has been in existence for six (6) months or more prior to the date of filing application for the Class "B" license or permit.

Sec. 7-2-8 Investigation.

The Village Administrator shall notify the Fire Inspector, Chief of Police, and Building Inspector (and, as appropriate, other pertinent law enforcement agencies) of each new application, 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. These officials shall furnish to the Village Administrator in writing, who shall forward to the Village Board, 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.

Sec. 7-2-9 Approval of Application.

- (a) No license shall be granted for operation on any premises or with any equipment for which taxes, assessments, forfeitures or other financial claims of the Village are delinquent and unpaid.
- (b) No license shall be issued unless the premises conform to the sanitary, safety and health requirements of the State Building Code, and the regulations of the State Board of Health

and local Board of Health applicable to restaurants. The premises must be properly lighted and ventilated, must be equipped with separate sanitary toilet and lavatory facilities equipped with running water for each sex and must conform to all Ordinances of the Village.

- (c) Consideration for the granting or denial of a license will be based on:
- (1) Arrest and conviction record of the applicant, subject to the limitations imposed by Secs. 111.321, 111.322, and 111.335, Wis. Stats.;
 - (2) The financial responsibility of the applicant;
 - (3) The appropriateness of the location and the premises where the licensed business is to be conducted; and
 - (4) Generally, the applicant's fitness for the trust to be reposed.
- (d) An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two (2) offenses which are substantially related to the licensed activity within the five (5) years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the Village Board, the Village Board reserves the right to consider the severity, and facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the Board, at its discretion, may, based upon an arrest or conviction record of two (2) or more offenses which are substantially related to the licensed activity within the five (5) years immediately preceding, act to suspend such license for a period of one (1) year or more.

Sec. 7-2-10 Granting of License.

- (a) Opportunity shall be given by the governing body to any person to be heard for or against the granting of any license. Upon the approval of the applicant by the Village Board, the Village Administrator shall issue to the applicant a license, upon payment by the applicant of the license fee to the Village. The full license fee shall be charged for the whole or fraction of any year.
- (b) If the Village Board denies the license, the applicant shall be notified in writing, by registered mail or personal service, of the reasons for the denial. The notice shall also inform the applicant of the opportunity to appear before the Village Board and to provide evidence as to why the denial should be reversed. In addition, the notice shall inform the applicant that the reconsideration of the application shall be held in closed session, pursuant to Sec. 19.85(1)(b), Wis. Stats., unless the applicant requests such reconsideration be held in open session and the Village Board consents to the request. Such written notice shall be mailed or served upon the applicant at least ten (10) days prior to the Village Board meeting at which the application is to be reconsidered.

Sec. 7-2-11 Transfer and Lapse of License.

- (a) In accordance with the provisions of Sec. 125.04(12), Wis. Stats., a license shall be transferable from one premises to another if such transfer is first approved by the Village Board. An application for transfer shall be made on a form furnished by the Village Administrator. Proceedings for such transfer shall be had in the same form and manner as the original application. The fee for such transfer is Ten Dollars (\$10.00). Whenever a license is transferred, the Village Administrator shall forthwith notify the Wisconsin Department of Revenue of such transfer. In the event of the sale of a business or business premises of the Licensee, the purchaser of such business or business premises must apply to the Village for reissuance of said license and the Village, as the licensing authority, shall in no way be bound to reissue said license to said subsequent purchaser.
- (b) Whenever the agent of a corporate holder of a license is for any reason replaced, the Licensee shall give the Village Administrator written notice of said replacement, the reasons therefor and the new appointment. Until the next regular meeting or special meeting of the Village Board, the successor agent shall have the authority to perform the functions and be charged with the duties of the original agent. However, said license shall cease to be in effect upon receipt by the Village Administrator of notice of disapproval of the successor agent by the Wisconsin Department of Revenue or other law enforcement officers of the municipality in which the license was issued. The corporation's license shall not be in force after receipt of such notice or after a regular or special meeting of the Village Board until the successor agent or another qualified agent is appointed and approved by the Village.

Sec. 7-2-12 Numbering of License.

All licenses shall be numbered in the order in which they are issued and shall state clearly the specific premises for which granted, the date of issuance, the fee paid and the name of the Licensee. The Village Administrator shall affix to the license his/her affidavit as provided by Sec. 125.04(4), Wis. Stats.

Sec. 7-2-13 Posting Licenses; Defacement.

- (a) Every person licensed in accordance with the provisions of this Chapter shall immediately post such license and keep the same posted while in force in a conspicuous place in the room or place where said beverages are drawn or removed for service or sale.
- (b) It shall be unlawful for any person to post such license or to be permitted to post it upon premises other than those mentioned in the application or knowingly to deface or destroy such license.

Sec. 7-2-14 Conditions of License.

All retail Class "A", Class "B", "Class A", "Class B" and "Class C" licenses granted hereunder shall be granted subject to the following conditions, and all other conditions of this Section, and subject to all other Ordinances and regulations of the Village applicable thereto.

- (a) **Consent to Entry.** Every applicant procuring a license thereby consents to the entry of law enforcement authorities or duly authorized representatives of the Village at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all things and articles there had in violation of Village Ordinances or state laws, and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.
- (b) **Employment of Minors.** No retail "Class B" or Class "B" licenses shall employ any underage person, as defined in the Wisconsin Statutes, but this shall not apply to hotels and restaurants. Family members may work on the licensed premises but are not permitted to sell or dispense alcoholic beverages.
- (c) **Disorderly Conduct Prohibited.** Each licensed premises shall, at all times, be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.
- (d) **Licensed Operator on Premises.** There shall be upon premises, and in visual control of such premises, operated under a "Class B", Class "B", or "Class C" license, at all times, the Licensee, members of the Licensee's immediate family who have attained the legal drinking age, and/or some person who shall have an operator's license and who shall be responsible for the acts of all persons serving as waiters, or in any other manner, any fermented malt beverages to customers. No person other than the Licensee shall serve fermented malt beverages in any place operated under a "Class B", Class "B", or "Class C" license unless he/she possesses an operator's license, or there is a person with an operator's license upon said premises at the time of such service.
- (e) **Health and Sanitation Regulations.** The rules and regulations of the State Board of Health governing sanitation in restaurants shall apply to all "Class B" liquor or "Class C" licenses issued under this Chapter. No "Class B" or "Class C" license shall be issued unless the premises to be licensed conform to such rules and regulations.
- (f) **Restrictions Near Schools and Churches.** No retail Class "A", Class "B", "Class A" or "Class B" license shall be issued for premises, the main entrance of which is less than three hundred (300) feet from the main entrance of any established public school, parochial school, hospital or church. Such distance shall be measured by the shortest route along the highway from the closest point of the maintenance entrance of such school, church or hospital to the main entrance to such premises. This Subsection shall not apply to premises licensed as such on June 30, 1947, nor shall it apply to any premises licensed as such prior to the occupation of real property within three hundred (300) feet thereof by any school building, hospital building or church building.

- (g) **Clubs.** No club shall sell or give away any intoxicating liquors except to bona fide members and guests invited by members.
- (h) **Gambling Prohibited.** Except as authorized by state law, no gambling or game of chance of any sort shall be permitted in any form upon any premises licensed under this Chapter or the laws of the State of Wisconsin.
- (i) **Credit Prohibited.** No retail Class "A", Class "B", "Class A", "Class B", or "Class C" liquor, wine, or fermented malt beverage Licensee shall sell or offer for sale any alcohol beverage to any person or persons by extending credit, except hotel credit extended to a resident guest or a club to a bona fide member. It shall be unlawful for such Licensee or permittee to sell alcohol beverages to any person on a passbook or store order or to receive from any person any goods, ware, merchandise or other articles in exchange for alcohol beverages.
- (j) **Licensee or Permittee Responsible for Acts of Help.** A violation of this Chapter by a duly authorized agent or employee of a Licensee or permittee under this Chapter shall constitute a violation by the Licensee or permittee. Whenever any Licensee or permittee under this Chapter shall violate any portion of this Chapter, proceedings for the suspension or revocation of the license or permit of the holder thereof may be instituted in the manner prescribed in this Chapter.
- (k) **Improper Exhibitions.**
 - (1) **Purpose.**
 - a. The 21st Amendment to the United States Constitution grants to the states the authority to regulate the sale of alcohol beverages;
 - b. Sec. 125.10(1), Wis. Stats., authorizes local municipalities to prescribe additional regulations for the sale of alcohol beverages which are not in conflict with Chapter 125, Wis. Stats.;
 - c. The Village Board upon due consideration finds that nudity and near nudity and sexual conduct are proper subjects for regulation in connection with the control of the sale of alcoholic beverages within the Village of Butler;
 - d. The Village Board further finds that any form of nudity coupled with alcohol consumption in a public place begets undesirable behavior and that there is a relationship between the consumption of alcoholic beverages and nudity and an increase in criminal activities, moral degradation and the disturbances of the peace and the good order of the community. Concurrence of nudity and alcoholic beverages are hazardous to the health and the safety of those in attendance and tends to depreciate the value of adjoining property and to harm the economic welfare of the community as a whole. When there is concurrence of nudity and consumption of alcoholic beverages, other activities which are illegal, immoral or unhealthy tend to accompany them, concentrate around them, and be aggravated by them. Such other activities include but are not limited to prostitution, solicitation for prostitution, lewd and lascivious behavior, possession,

- distribution and transportation of obscene materials, sale or possession of controlled substances and violent crimes against persons and property; and,
- e. The Village Board has determined that the enactment of an ordinance prohibiting nudity and sexual conduct in establishments licensed to sell alcoholic beverages within the Village of Butler will prevent or limit such undesirable conduct and activities.
- (2) It shall be unlawful for any person to perform, or for any Licensee or manager or agent of the Licensee to permit any employee, entertainer or patron to engage in any live act, demonstration, dance or exhibition on the licensed premises which:
 - a. Exposes his or her genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or
 - b. Exposes any device, costume or covering which gives the appearance of or simulates genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or
 - c. Exposes any portion of the female breast at or below the areola thereof; or
 - d. Engages in or simulates sexual intercourse and/or any sexual contact, including the touching of any portion of the female breast or the male and/or female genitals.

Annotation: See *Colonnade Catering Corp. v. United States*, 397 U.S. 72, 90 S. Ct. 774 (1970); and *State v. Erickson*, 101 Wis. 2d 224 (1981), for guidelines for warrantless searches of licensed premises.

Sec. 7-2-15 Closing Hours.

Closing hours shall be established in conformance with Sec. 125.32(3), Wis. Stats., and further restricted as follows:

- (a) **Closing Hours.**
 - (1) No premises for which a wholesale or retail liquor or fermented malt beverage license has been issued shall remain open for the sale of alcoholic beverages:
 - a. If a wholesale liquor permit, between 5:00 p.m. and 8:00 a.m., except on Saturday when the closing hour shall be 9:00 p.m.
 - b. If a wholesale fermented malt beverage license has been issued, between 9:00 p.m. and 8:00 a.m.
 - c. If a Class "A" or "Class A" license, between 9:00 p.m. and 8:00 a.m.
 - d. If a Class "B" or "Class B" license, between 2:00 a.m. and 6:00 a.m. except on Saturdays and Sundays between 2:30 a.m. and 6:00 a.m. On January 1, the premises shall not be required to close.
 - (2) No premises or event for which a Special Permit has been issued shall remain open for the dispensing of alcohol beverages between 1:00 a.m. and 8:00 a.m., Monday through Saturday, except on January 1, when closing hours shall be between 2:00 a.m.

and 8:00 a.m. Nor shall premises for which a Special Permit has been issued remain open between 10:00 p.m. on Sunday and 8:00 a.m. on Monday.

- (3) Between 12:00 midnight and 6:00 a.m. no person may sell fermented malt beverages on Class "B" licensed premises in an original unopened package, container or bottle or for consumption away from the premises.
 - (4) Hotels and restaurants, the principal business of which is the furnishing of food or lodging to patrons, bowling alleys, indoor horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business but shall not sell liquor or malt beverages during the closing hours of Subsection (a)(1) above.
- (b) **Carryout Hours.** Between 9:00 p.m. and 8:00 a.m., no person may sell, remove, carry out or permit to be removed or carried out from any premises having a "Class A" or Class "A" license, fermented malt beverages or intoxicating liquor in original unopened packages, containers or bottles or for consumption away from the premises. On "Class B" liquor or Class "B" fermented malt beverage licensed premises, carryout shall be prohibited between midnight and 6:00 a.m.

Sec. 7-2-16 Restrictions on Temporary Fermented Malt Beverage or Wine Licenses.

It shall be unlawful for any person or organization on a temporary basis to sell or offer to sell any alcohol beverage upon any Village-owned property or privately-owned property within the Village of Butler, except through the issuance of a Temporary Class "B" Fermented Malt Beverage License or Temporary "Class B" Wine License issued by the Village Board in accordance with Wisconsin Statutes and as set forth in this Section. A Temporary Class "B" Fermented Malt Beverage License or Temporary "Class B" Wine License authorizing the sale and consumption of beer and/or wine on Village-owned property or privately-owned property may be authorized by the Village Board provided the following requirements are met:

- (a) **Compliance with Eligibility Standards.** The organization shall meet the eligibility requirements of a bona fide club, association, lodge or society as set forth in Sec. 125.26(6), Wis. Stats., and shall fully comply with the requirements of this Section and Section 11-4-1. Members of an organization which is issued a temporary license and who are issued operator's licenses for the event may be required to attend a pre-event informational meeting to learn what rules and regulations apply and what the responsibilities of the bartenders and organization will be.
- (b) **Posting of Signs and Licenses.** All organizations issued a temporary license shall post in a conspicuous location at the main point of sale and at all remote points of sale a sufficient number of signs stating that no fermented malt beverage shall be served to any under-age person without proper identification.

- (c) **Fencing.**
- (1) If necessary due to the physical characteristics of the site, the Village Board may require that organizations install a double fence around the main point of sale to control ingress and egress and continually station a licensed operator, security guard or other competent person at the entrance for the purpose of checking age identification. Where possible, there shall be only one (1) point of ingress and egress. When required, the double fence shall be a minimum of four (4) feet high and a minimum of six (6) feet between fences.
 - (2) For indoor events, the structure used shall have suitable exits and open spaces to accommodate anticipated attendance. It should contain adequate sanitary facilities to accommodate the size of the group.
- (d) **Underage Persons Prohibited.** No underage persons as defined by the Wisconsin Statutes shall be allowed to assist in the sale of fermented malt beverages or wine at any point of sale, nor shall they be allowed to loiter or linger in the area of any point of sale.
- (e) **Licensed Operators Requirement.** A licensed operator shall be stationed at all points of sales at all times.
- (f) **Waiver.** The Village Board may waive or modify the requirements of this Section due to the physical characteristics of the licensed site.
- (g) **Insurance.** The applicant for a temporary fermented malt beverage or wine license may be required to indemnify, defend and hold the Village and its employees and agents harmless against all claims, 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 license, the applicant may be required to furnish a Certificate of Comprehensive General Liability insurance with the Village of Butler. The applicant may be required to furnish a performance bond prior to being granted the license.
- (h) **Special Permit.**
- (1) A Special Permit may be issued by the Village Administrator to families or clubs including, but not limited to, non-profit charitable organizations, to state, county, or local fair associations or agricultural societies, to churches, lodges or societies and to posts of veterans' organizations. A Special Permit issued under this Subsection authorizes the consumption and dispensing of fermented malt beverages and/or wine coolers at particularly described picnics or other similar gatherings which are held on public property. No charge shall be allowed in connection with the serving, selling, consumption, or distribution of fermented malt beverages and/or wine coolers at events for which a Special Permit has been granted unless a Temporary Class "B" license or a Temporary "Class B" license has also been obtained under this Chapter for said event. A Special Event for an event for which a Temporary Class "B" license has been or will be procured may only be issued by the Village Administrator upon proof by the applicant that liability insurance coverage of not less than One-half Million Dollars (\$500,000) has been procured for the contemplated event. This Subsection is not intended to regulate the internal activities of private organizations, nor legitimate private social events held entirely on private property.

- (2) Except as otherwise provided within Subsection (b)(2) above, or authorized by ordinance or resolution of the Village Board under authority of Sec. 125.06(6), Wis. Stats., the consumption or dispensing of alcoholic beverages on any public property or on a highway as defined in Sec. 340.01(22), Wis. Stats., is prohibited.
- (3) The application for a Special Permit shall be made to the Village Administrator not less than forty-eight (48) hours before the event takes place. Said application shall include an agreement signed by the applicant on behalf of the entity applying for a Special Permit whereby the applicant expressly warrants and represents that the Village of Butler, its officers, agents, and employees, shall be held harmless and indemnified from any and all claims which may arise from the issuance of a Special Permit under this Chapter. The Village Administrator shall refer to the Village Board any applications for a Special Permit under this Section where there is a question as to whether an applicant qualifies for a Special Permit under this Section.
- (4) There shall be no fee for a Special Permit under this Subsection. However, a Special Permit may not be issued to any applicant for more than three (3) occasions per year under this Section, provided that each "occasion" be defined to mean no more than three (3) consecutive calendar days.

Cross Reference: Section 11-4-1.

Sec. 7-2-17 Revocation and Suspension of Licenses; Non-Renewal.

- (a) **Procedure.** Whenever the holder of any license under this Chapter violates any portion of this Chapter or Title 11, Chapter 4, of this Code of Ordinances, proceedings for the revocation of such license may be instituted in the manner and under the procedure established by this Section.
- (b) **Abandonment of Premises.** Any Licensee holding a license to sell alcohol beverages who abandons such business shall forfeit any right or preference he may have to the holding of or renewal of such license. Abandonment shall be sufficient grounds for revocation of any alcohol beverage license. The losing of the licensed premises for at least six (6) months shall be prima facie evidence of the abandonment, unless extended by the Village Board. All persons issued a license to sell alcohol beverages in the Village for which a quota exists limiting the number of such licenses that may be issued by the Village shall cause such business described in such license to be operated on the premises described in such license for at least one hundred fifty (150) days during the terms of such license, unless such license is issued for a term of less than one hundred eighty (180) days, in which event this Subsection shall not apply.
- (c) **License Revocation or Suspension.** License revocation or suspension procedures shall be as prescribed by Chapter 125, Wis. Stats.

(d) **Point Values for Alcohol Beverages Violation, Revocations and Suspensions.**

- (1) **Purpose and Definitions.** The purpose of this Subsection is to administratively interpret those portions of this Chapter relating to the establishment of an alcohol beverage demerit point system to assist in determining which license holders should be subject to suspension or revocation procedures.
- (2) **Point Schedule.** The scale of demerit points is listed according to the type of alcohol beverage violation. This demerit point system is used to identify habitually troublesome license holders who have repeatedly violated state statutes and Village Ordinances for the purpose of recommending suspension or revocation of their alcohol beverage licenses.

Type of Violation	Point Value
1. Sale of alcohol beverages without license or permit; sale of controlled substances on licensed premises	100
2. Sale of alcohol beverages to underage person	50
3. Sale of alcohol beverages to intoxicated person	50
4. Underage person on premises	50
5. Intoxicated bartender; disorderly conduct on premises	50
6. After hours consumption	50
7. Refusal to allow police to search premises or refusal to cooperate with lawful police investigation	50
8. Licensee, agent or operator not on premises at all times	25
9. Persons on premises after closing hours	25

10. Violations of carry-out hours	25
11. Licensee permitting person to leave licensed premises with open alcohol beverage	25
12. All other violations of this Chapter	25

- (3) **Violations How Calculated.** In determining the accumulated demerit points against a licensee within twelve (12) months, the Village shall use the date each violation was committed as the basis for the determination.
- (4) **Suspension or Revocation of License.**
- a. The Village Board shall call before it for purposes of revocation or suspension hearing all licensees who have accumulated two hundred (200) points in a twelve (12) month period as a result of court imposed convictions.
 - b. If the demerit point accumulation calculated from the date of violation amounts to two hundred (200) points in a twelve (12) month period, a suspension of thirty (30) days shall be imposed. If the demerit point accumulation is two hundred fifty (250) points (calculated from the date of violation) in a twenty-four (24) month period, a suspension of sixty (60) days shall be imposed. If the demerit point accumulation in a thirty-six (36) month period is three hundred (300) points, the suspension shall be for the maximum allowed by law, which is ninety (90) days. If the license is revoked no other license shall be granted to such licensee or for such premises for a period of twelve (12) months from the date of revocation.
 - c. The procedure to be used for suspension or revocation shall be that found in Subsection (c) above.

Sec. 7-2-18 Non-Alcohol Events for Underage Persons on Licensed Premises.

The presence of underage persons on a licensed premises as provided under Sec. 125.07(3)(a)10, Wis. Stats., shall be subject to the following:

- (a) The Licensee or agent of a corporate Licensee shall notify the Police Department at least forty-eight (48) hours in advance of the date of any event at which underage persons will be present on the licensed premises. Each such non-alcohol event notice shall specify the date(s) on which the event is to occur and the time(s) of commencement. All notices shall be filed with the Police Department during normal working hours (8:00 a.m. to 5:00 p.m., Monday through Friday) and shall be given on forms prescribed by the Village. After a

non-alcohol event notice has been given, the Licensee may cancel an event(s) only by giving like notice to the Police Department in accordance with the provisions of this Subsection. Regardless of the date given, all notices shall expire and be deemed cancelled no later than the date of expiration or revocation of the applicable retail Class "B", "Class B" or "Class C" license.

- (b) During the period of any non-alcohol event a notice card prescribed by the Police Department shall be posted at all public entrances to the licensed premises notifying the general public that no alcohol beverages may be consumed, sold or given away on or carried into the licensed premises during the event. Such notice cards shall be made available by the Village to a requesting Licensee.
- (c) Once a non-alcohol event has commenced, no alcohol beverages may be consumed, sold or given away on or carried into the licensed premises until the next day following the closing hours of the licensed premises.
- (d) During the period of any non-alcohol event all alcohol beverages shall be stored in a locked portion of the licensed premises in a secure place out of the sight and physical reach of any patron present and shall be under the direct and immediate control and supervision of the Licensee or a licensed bartender in the employ of the Licensee. All beer taps and automatic dispensers of alcohol beverages ("speed guns") shall be either disconnected, disabled or made inoperable.

Sec. 7-2-19 Outdoor Sports and Beer Gardens Activities Regulated.

- (a) **Purpose.** The Village Board finds that restrictions are necessary for outdoor beer gardens and sports activities at premises holding "Class B" and Class "B" liquor and fermented malt beverages licenses due to concerns arising from noise, density and related problems. This Section enacted pursuant to police power provides a framework for regulatory controls on such outdoor sports and beer garden activities.
- (b) **Approval Required.**
 - (1) **Generally.** No Licensee shall conduct or sponsor any outdoor sports activity or event or beer garden on property forming any part of the real property on which the licensed premises exist without the prior approval of the Village Board.
 - (2) **Permit Required for Beer Garden Outdoor Consumption.** No licensee shall permit the consumption of alcohol beverages on any part of the licensed premises not enclosed within the building, except under a beer garden permit granted by the Village Board. The permits are a privilege in which no rights vest and, therefore, may be revoked by the Village Board at its pleasure at any time or shall otherwise expire on June 30 of each year. No person shall consume or have in his or her possession alcohol beverages on any unenclosed part of a licensed premises which is not described in a valid beer garden permit.

- (c) **Application.** If a Licensee shall conduct or sponsor any outdoor sports activity or event or beer garden on the Licensee's property, the Licensee shall file an application with the Administrator setting forth the following information:
 - (1) The name, address and telephone number of the person or persons who will be responsible for the actual conduct of the activity or event;
 - (2) The date and duration of time for the proposed activity or event;
 - (3) An accurate description of that portion of the Licensee's property proposed to be used;
 - (4) A good faith estimate of the number of users, participants and spectators for the beer garden or proposed activity or event; and
 - (5) The Licensee's plan for maintaining the cleanliness of the licensed area.
- (d) **Time for Filing.** The Licensee shall file the application not less than fifteen (15) days before the date of the proposed activity or event. The Village Board may waive the fifteen (15) day time limit upon a Licensee's showing of exigent circumstances. The application shall be accompanied by payment of a fee of Twenty Dollars (\$20.00) for review of the application. The applicant may request that an annual permit be issued for the beer garden or outdoor sports activities.
- (e) **Review.** The Village Board shall review the applications in light of the standards of this Section. If the nature of the property or the event requires the imposition of additional regulations, the Village Board may impose these regulations upon an express finding detailing the reasons for additional regulation. All property owners within one hundred fifty (150) feet of the proposed beer garden or outside sports facility shall be notified of the pendency of application for a permit by first class mail.
- (f) **Outdoor Sports Activity Standards.** The following standards shall apply to any outdoor sports activity regulated under this Section:
 - (1) Approval of an application shall not act to permit outdoor consumption of alcohol beverages on the property beyond the area specifically licensed.
 - (2) If the estimated number of participants and spectators shall bring the number of persons on the property above the number for which licensed premises' restroom facilities are rated adequate, the Licensee shall provide a number of portable temporary restrooms sufficient to serve the estimated number of persons.
 - (3) The Village Board shall not grant approval to any applicant whose property on which the activity or event is proposed is adjacent to any property zoned residential or on which a residential use exists as a nonconforming use, or within one hundred (100) feet of any property zoned residential or on which a residential use exists as a nonconforming use. Fencing may be required.
 - (4) The applicant shall provide parking adequate for the proposed activity or event, whether on-site or through agreements with property owners shown to the Village Board's satisfaction to permit their property to be used for parking for the proposed activity or event.
 - (5) The applicant shall show the Village Board plans adequate to provide reasonable access to participants and spectators for the event, and to limit access for all other persons.

- (6) The Licensee shall clean up all garbage and debris relating to the activity or event at least once per twenty-four (24) hours during the activity or event.
- (7) The Licensee shall not permit the noise level of the sports activity or event to exceed seventy-five (75) dB, measured at any border of the Licensee's real property.
- (g) **Limitations on Issuance of Beer Garden Permits.** No permit shall be issued for a beer garden if any part of the beer garden is within one hundred (100) feet of a structure used for residential purposes, except residential uses located in the same structure as the licensed premises. No permit shall be issued for a beer garden if the beer garden area is greater than fifty percent (50%) of the gross floor area of the adjoining licensed premises. Each applicant for a beer garden permit shall accurately describe the area intended for use as a beer garden and shall indicate the nature of fencing or other measures intended to provide control over the operation of the beer garden. Every beer garden shall be completely enclosed with a fence or wall not less than six (6) feet in height. No amplified sound or music is permitted outside the enclosed (building) premises. Amplified sound or music is not permitted in the beer garden. There shall be a licensed operator with the beer garden at all times the beer garden is in operation.
- (h) **State Statutes Enforced Within Beer Garden.** Every permittee under this Section shall comply with and enforce all provisions of Chapter 125, Wis. Stats., applicable to Class "B" licensed premises, except insofar as such provisions are clearly inapplicable. Violation of the provisions of Chapter 125, Wis. Stats., shall be grounds for immediate revocation of the outdoor sports activity or beer garden permit by the Village Board.
- (i) **Violations.** Failure of the Licensee to comply with any of the provisions of this Section shall be grounds for suspension, nonrenewal or revocation of the Licensee's alcohol beverage license or licenses.

Sec. 7-2-20 through Sec. 7-2-29 Reserved for Future Use.

Article B: Operator's License

Sec. 7-2-30 Operator's License Required.

- (a) **Operator's Licenses; Class "A", Class "B" or "Class C" Premises.** Except as provided under Sec. 125.32(3)(b) and Sec. 125.07(3)(a)10, Wis. Stats., no premises operated under a Class "A", Class "B", or "Class C" license or permit may be open for business unless there is upon the premises the Licensee or permittee, the agent named in the license or permit if the Licensee or permittee is a corporation, or some person who has an operator's license and who is responsible for the acts of all persons serving any fermented malt beverages to customers. An operator's license issued in respect to a vessel under Sec. 125.27(2), Wis. Stats., is valid outside the municipality that issues it. For the purpose of this Section, any person holding a manager's license under Sec. 125.18, Wis. Stats., or any member of the Licensee's or permittee's immediate family who has attained the age of eighteen (18), shall be considered the holder of an operator's license. No person, including a member of the Licensee's or permittee's immediate family, other than the Licensee, permittee or agent, may serve fermented malt beverages in any place operated under a Class "A", Class "B", or "Class C" license or permit unless he or she has an operator's license or is at least eighteen (18) years of age and is under the immediate supervision of the Licensee, permittee, agent or a person holding an operator's license, who is on the premises at the time of the service.
- (b) **Use by Another Prohibited.**
- (1) No person may allow another to use his or her Class "A" or Class "B" license or permit to sell alcohol beverages.
 - (2) The license or permit of a person who violates Subsection (b)(1) above shall be revoked.

State Law Reference: Sections 125.17 and 125.32, Wis. Stats.

Sec. 7-2-31 Procedure Upon Application.

- (a) The Village Board may issue an operator's license, which license shall be granted only upon application in writing on forms to be obtained from the Village Administrator only to persons eighteen (18) years of age or older. Operator's licenses shall be operative only within the limits of the Village.
- (b) All applications are subject to an investigation by Village-designated law enforcement authorities and/or other appropriate authority to determine whether the applicant and/or premises to be licensed complies with all regulations, ordinances and laws applicable thereto. The investigating authority shall conduct an investigation of the applicant including, but not limited to, requesting information from the State, surrounding munici-

palities, and/or any community where the applicant has previously resided concerning the applicant's arrest and conviction record. Based upon such investigation, the investigating authority shall recommend, in writing, to the Village Board approval or denial of the application. If the investigating authority recommends denial, the investigating authority shall provide, in writing, the reasons for such recommendation.

Sec. 7-2-32 Duration.

Licenses issued under the provisions of this Chapter shall be valid for a period of one (1) year and shall expire on the thirtieth (30th) day of June.

Sec. 7-2-33 Operator's License Fee; Provisional or Temporary Licenses.

- (a) **Fee.** The fee for a one (1) year operator's license shall be as prescribed in Section 1-3-1. The non-refundable fee for a provisional license shall be as prescribed in Section 1-3-1. There shall be no fee for a temporary operator's license.
- (b) **Provisional License.** The Village Administrator may issue provisional operator's licenses in accordance with Sec. 125.17(5), Wis. Stats. The provisional operator's license shall expire sixty (60) days after its issuance or when an operator's license is issued to the holder, whichever is sooner. The Chief of Police shall submit to the Administrator a report regarding the applicant's conviction history, if any. The applicant for such provisional license must present evidence to the Administrator establishing that the applicant is enrolled in an Alcohol Awareness Training Program established pursuant to Sec. 125.17(a), Wis. Stats. The Village Administrator may, upon receiving an application for a temporary provisional license, issue such a license without requiring the successful completion of the approved program as described herein. However, such temporary license shall be used only for the purpose of allowing such applicant the privilege of being licensed as a beverage operator pending his/her successful completion of the approved program, and the applicant shall also apply for a regular operator's license. No such Provisional Operators License shall be issued prior to a waiting period of less than ninety-six (96) hours [four (4) days], and the completion of a background check subject to limitations established by law. A provisional license may not be issued to any person who has been denied an operator's license by the Village Board, who has had his/her operator's license revoked or suspended within the preceding twelve (12) months, or who previously held an operator's license and who failed to complete the Alcohol Awareness Training Program without first successfully completing the program. No person shall be issued more than three (3) provisional licenses in any twelve (12) month period. The Village Administrator shall provide an appropriate

application form to be completed in full by the applicant. The Village Administrator may revoke the provisional license issued if he/she discovers that the holder of the license made a false statement on the application. A provisional license shall not be renewed.

- (c) **Temporary License.** The Village Administrator may issue a temporary operator's license provided that:
- (1) This license may be issued only to operators employed by, or donating their services to, nonprofit corporations.
 - (2) No person may hold more than one (1) license of this kind per year.
 - (3) The license is valid for any period from one (1) day to fourteen (14) days, and the period for which it is valid shall be stated on the license.

Sec. 7-2-34 Issuance or Denial of Operator's Licenses.

- (a) After the Village Board approves the granting of an operator's license, the Village Administrator shall issue the license. Such licenses shall be issued and numbered in the order they are granted and shall give the applicant's name and address and the date of the expiration of such license.
- (b) (1) If the application is denied by the Village Board, the Village Administrator shall, in writing, inform the applicant of the denial, the reasons therefore, and of the opportunity to request a reconsideration of the application by the Village Board in a closed session. Such notice must be sent by registered mail to, or served upon, the applicant at least ten (10) days prior to the Board's reconsideration of the matter. At such reconsideration hearing, the applicant may present evidence and testimony as to why the license should be granted.
- (2) If, upon reconsideration, the Board again denies the application, the Village Administrator shall notify the applicant in writing of the reasons therefore. An applicant who is denied any license upon reconsideration of the matter, may apply to Circuit Court pursuant to Sec. 125.12(2)(d), Wis. Stats., for review.
- (c) (1) Consideration for the granting or denial of a license will be based on:
- a. Arrest and conviction record of the applicant, subject to the limitations imposed by Sections 111.321, 111.322, and 111.335, Wis. Stats.;
 - b. The financial responsibility of the applicant;
 - c. The appropriateness of the location and the premises where the licensed business is to be conducted; and
 - d. Generally, the applicant's fitness for the trust to be reposed.
- (2) If a Licensee is convicted of an offense substantially related to the licensed activity, the Village Board may act to revoke or suspend the license.
- (d) An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been

a law offender" is generally considered to be an arrest or conviction of at least two (2) offenses which are substantially related to the licensed activity within the five (5) years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the Village Board, the Village Board reserves the right to consider the severity, and facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the Village Board, at its discretion, may, based upon an arrest or conviction record of two (2) or more offenses which are substantially related to the licensed activity within the five (5) years immediately preceding, act to suspend such license for a period of one (1) year or more.

Sec. 7-2-35 Training Course.

- (a) Except as provided in Subsection (b) below, the Village Board may not issue an operator's license unless the applicant has successfully completed a responsible beverage server training course at any location that is offered by a vocational, technical and adult education district and that conforms to curriculum guidelines specified by the board of vocational, technical and adult education or a comparable training course that is approved by the educational approval board or unless the applicant fulfills one of the following requirements:
 - (1) The person is renewing an operator's license.
 - (2) Within the past two (2) years, the person held a Class "A", Class "B", "Class A", "Class B", or "Class C" license or permit or a manager's or operator's license.
 - (3) Within the past two (2) years, the person has completed such a training course.
- (b) The Village Board may issue a provisional operator's license to a person who is enrolled in a training course under Subsection (a) above and shall revoke that license if the applicant fails successfully to complete the course in which he or she enrolls.
- (c) The Village Board may not require that applicants for operators' licenses undergo training in addition to that under Subsection (a), but may require applicants to purchase, at cost, materials that deal with relevant local subjects not covered in the course under Subsection (a).

Sec. 7-2-36 Display of License.

Each license issued under the provisions of this Chapter shall be posted on the premises whenever the operator dispenses beverages or be in his/her possession, or carry a license card.

Sec. 7-2-37 Revocation of Operator's License.

Violation of any of the terms or provisions of the State law or of this Chapter relating to operator's licenses by any person holding such operator's license shall be cause for revocation of the license.

Sec. 7-2-38 through Sec. 7-2-39

Reserved for Future Use.

Article C: Penalties

Sec. 7-2-40 Penalties.

- (a) Forfeitures for violations of Sections 125.07(1)-(5) and 125.09(2), Wis. Stats., adopted by reference in Section 7-2-1 of the Code of Ordinances of the Village of Butler, shall conform to the forfeiture penalty permitted to be imposed for violations of the comparable State Statute, including any variations or increases for subsequent offenses.
- (b) Any person who shall violate any provision of this Chapter of the Code of Ordinances of the Village of Butler, except as otherwise provided in Subsection (a) herein or who shall conduct any activity or make any sale for which a license is required without a license, shall be subject to a forfeiture as provided in the general penalty section of this Code of the Village of Butler.
- (c) Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes.

Title 7 ▶ Chapter 3

Cigarette License; Soda Water Beverage License

- 7-3-1** Cigarette License
7-3-2 Soda Water Beverage License

Sec. 7-3-1 Cigarette License.

- (a) **License Required.** No person, firm or corporation in the Village of Butler shall, in any manner, directly or indirectly, upon any premises, or by any device, sell, exchange, barter, dispose of or give away, or keep for sale, any cigarette, cigarette paper or cigarette wrappers, or any substitute therefor, without first obtaining a license as hereinafter provided.
- (b) **Application for License; Fee.** Every person, firm or corporation desiring a license under this Section shall file with the Village Administrator a written application therefor, stating the name of the person and the place for which such license is desired. Each license shall be filed by the Village Administrator and shall name the licensee and the place wherein he/she is authorized to conduct such business, and the same shall not be delivered until the applicant shall pay to the Village Administrator a license fee as prescribed in Section 1-3-1.
- (c) **Issuance and Term of License.** Licenses for the sale, exchange, barter, disposition of, or giving away or keeping for sale of cigarette paper or cigarette wrappers or any substitute therefor shall be issued by the Village Administrator. 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.

State Law Reference: Sec. 134.65, Wis. Stats.

Sec. 7-3-2 Soda Water Beverage License.

- (a) **Application.** Application for a soda water beverage license shall be made in writing to the Village Administrator on forms to be provided by him/her, which application shall be properly signed and sworn to before a notary public or other official authorized to

administer oaths. The application shall designate the specific premises for which the license is sought and shall be referred by the Village Administrator to the Village Board.

- (b) **Fees.** The license fee for a soda water beverage license shall be as prescribed in Section 1-3-1.
- (c) **Expiration.** The license issued under the provisions of this Section shall expire on the thirtieth (30th) day of June following the date of issuance.
- (d) **Removal of Business.** In case of the removal within the license period of the place of business from the premises designated in the license to another location within the Village, the licensee shall give notice of such change of location, and the license shall be amended accordingly without payment of an additional fee. No such license, however, shall be transferable from one person to another.

State Law Reference: Sec. 66.0433, Wis. Stats.

Title 7 ► Chapter 4

Transient Merchants

7-4-1	Registration Required
7-4-2	Definitions
7-4-3	Exemptions
7-4-4	Registration
7-4-5	Investigation
7-4-6	Appeal
7-4-7	Regulation of Transient Merchants
7-4-8	Revocation of Registration
7-4-9	Special Event Vending Permit

Sec. 7-4-1 Registration Required.

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

Sec. 7-4-2 Definitions.

In this Chapter the following definitions shall be applicable:

- (a) **Transient Merchant.** 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. The term shall include, but not be limited to, peddlers and transient merchants. The sale of goods includes donations required by the transient merchant for the retention of goods by a donor or prospective customer. For purposes of this Section, sale of merchandise includes a sale in which the personal services rendered upon or in connection with the merchandise constitutes the greatest part of value for the price received, but does not include a farm auction sale conducted by or for a resident farmer of personal property used on the farm, or the sale of produce or other perishable products at retail or wholesale by a resident of this state.
- (b) **Permanent Merchant.** Any person who, for at least one (1) year prior to the consideration of the application of this Chapter to said merchant:
 - (1) Has continuously operated an established place of business in the Village; or
 - (2) Has continuously resided in the Village and now does business from his/her residence.

- (c) **Merchandise.** Shall include personal property of any kind, and shall include merchandise, goods, or materials provided incidental to services offered or sold. The sale of merchandise includes donations required by the seller for the retention of merchandise by a donor or prospective customer.
- (d) **Charitable Organization.** Shall include any benevolent, philanthropic, religious, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such, including, for example, Boy Scouts, Girl Scouts, 4-H Clubs and school organizations.
- (e) **Administrator.** The Village of Butler Administrator or Treasurer.
- (f) **Person.** All humans of any age or sex, partnerships, corporations, associations, groups, organizations and any other description of a collection of human beings working in concert or for the same purpose or objective.

Sec. 7-4-3 Exemptions.

The following shall be exempt from all provisions of this Chapter:

- (a) **Regular Delivery Routes.** Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes;
- (b) **Wholesalers.** Any person selling merchandise at wholesale to dealers in such merchandise;
- (c) **Agricultural Products.** Any person selling Wisconsin agricultural products which the person has grown;
- (d) **Deliveries by Permanent Merchants.** Any permanent merchant or employee thereof who takes orders at the home of the buyer for merchandise regularly offered for sale by such merchant within this county and who delivers such merchandise in their regular course of business;
- (e) **Requested Home Visits.** Any person who has an established place of business where the merchandise being sold or is offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested, a home visit by, said person;
- (f) **Prior Sales Transactions.** Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer;
- (g) **Services Not Offering Merchandise.** Any person selling or offering for sale a service unconnected with the sale or offering for sale of merchandise;
- (h) **Auctions; Sales Authorized by Statute.** Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law;
- (i) **Charitable Organizations; Limited Exemptions.** Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization, provided that such charitable organization is registered under Sec. 440.41, Wis. Stats. Any charitable organization engaging in the sale of merchandise and not registered under Sec.

440.41, Wis. Stats., or which is exempt from that statute's registration requirements, shall be required to register under this Chapter.

- (j) **Alleged Transient Merchants.** Any person who claims to be a permanent merchant, but against whom complaint has been made to the Village Administrator that such person is a transient merchant, provided that there is submitted to the Village Administrator proof that such person has leased for at least one (1) year, or purchased, the premises from which he/she is conducting business, or proof that such person has conducted such business in this Village for at least one (1) year prior to the date complaint was made.
- (k) **Persons Licensed by Examining Boards.** Any individual licensed by an examining board as defined in Sec. 15.01(7), Wis. Stats.
- (l) **Village Authorized Events.** This Chapter does not apply to transient merchants while doing business at special events authorized by the Village Board.
- (m) **Resident Minors.** Minors under eighteen (18) years of age who are residents of the School District of which the Village of Butler is a part.
- (n) **Solicitors.** Persons not engaged in commercial activity and are soliciting support for political, religious, or similar non-commercial programs or organizations.

Sec. 7-4-4 Registration.

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

- (b) **Identification and Certification.** Applicants shall present to the Village Administrator for examination:
- (1) A driver's license or some other proof of identity as may be reasonably required;
 - (2) A state certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighing and measuring devices approved by state authorities;
 - (3) A state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than ninety (90) days prior to the date the application for license is made.
- (c) **Registration Fee.**
- (1) At the time of filing applications, a fee as prescribed in Section 1-3-1 shall be paid to the Administrator to cover the cost of investigation of the facts stated in the applications and for processing said registration. Every member of a group must file a separate registration form.
 - (2) The applicant shall sign a statement appointing the Village Administrator his 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.
 - (3) Upon payment of said fees and the signing of said statement, the Village Administrator 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. 7-4-5(b) below.

Sec. 7-4-5 Investigation.

- (a) Upon receipt of each application, the Police Department shall make and complete an investigation of the statements made in such registration, said investigation to be completed within five (5) days from the time of referral.
- (b) The Village Administrator may refuse to register the applicant and issue a permit if it is determined, pursuant to the investigation above, that: the application contains any material omission or materially inaccurate statement; complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns, not exceeding three (3), in which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation or ordinance violation within the last five (5) years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or the applicant failed to comply with any applicable provision of Section 7-4-4(b) above.

Sec. 7-4-6 Appeal.

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

Sec. 7-4-7 Regulation of Transient Merchants.**(a) Prohibited Practices.**

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

(b) Disclosure Requirements.

- (1) After the initial greeting and before any other statement is made to a prospective customer, a transient merchant shall expressly disclose his name, the name of the company or organization he/she is affiliated with, if any, and the identity of merchandise or services he/she offers to sell.
- (2) If any sale of merchandise is made by a transient merchant or any sales order for the later delivery of merchandise is taken by the seller, the buyer shall have the right to cancel said transaction if it involves the extension of credit or is a cash transaction of more than Twenty-five Dollars (\$25.00), in accordance with the procedure as set forth

in Sec. 423.203, Wis. Stats.; the seller shall give the buyer two (2) copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of Sections 423.203(1)(a)(b) and (c), (2) and (3), Wis. Stats.

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

Sec. 7-4-8 Revocation of Registration.

- (a) Registration may be revoked by the Village Board after notice and hearing if the registrant made any material omission or materially inaccurate statement in the application for registration, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales, violated any provision of this Chapter or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling.
- (b) Written notice of the hearing shall be served personally or pursuant to Section 7-4-4(c) on the registrant at least seventy-two (72) hours prior to the time set for the hearing; such notice contain the time and place of hearing and a statement of the acts upon which the hearing will be based.

Sec. 7-4-9 Special Event Vending Permit.

- (a) **Permit Required.** There shall be a per day charge as prescribed in Section 1-3-1 for a special event vending permit. The Village Board will determine whether the applicant qualifies for a special event vending permit. The permit shall set forth the exact dates on which and the exact location where such business shall be carried on and shall be valid only during the dates and at the locations specified. In addition, the vendor shall have adequate liability insurance in force as required by this Section.
- (b) **Exclusive Vending Rights During Special Events.**
 - (1) During a special event the Village Board may by resolution and after public hearing suspend specifically enumerated restrictions on transient merchants on any street, alley, sidewalk or public square and public park. Alternative rules and procedures may be established by the Village Board for the special event.
 - (2) To encourage the integrity, comprehensiveness and success of a special event taking place on any street, alley, sidewalk, public square or public park, the Village Board

may by resolution and after public hearing reserve up to ten (10) days during any vending year when transient merchant permits will not be valid at a particular location and when some or all categories of transient merchant permits will not be valid in the perimeter of the special event. During any special event, the rules, guidelines and procedures as set forth in the resolution approved by the Village Board shall take precedence.

- (3) For each such specific day during which certain or all vending permits have been declared to be not valid, the Village Board may by separate resolution and after public hearing, authorize the sponsor of a special event to select vendors, salespersons and vending sites for the duration of the special event within its perimeter. The event's sponsor shall contact the Village Board at least one (1) week before the public hearing with an outline of the rules, regulations, fees, areas affected and a proposed resolution for exclusive vending rights. The determinations of the Village Board as to any specific day during which a transient merchant permit will not be valid shall be by resolution adopted at least four (4) weeks in advance of such specific day. Transient merchant permits shall be subject to invalidation for up to ten (10) days each vending year of any one (1) location as provided in this subdivision.
- (4) No person holding a transient merchant permit may sell or offer for sale any goods or foods during a special event when his/her license is not valid unless authorized by the sponsor of the special event as specified above.

Title 7 ▶ Chapter 5

Regulation of Large Assemblies of Persons

7-5-1 Permits for Large Public Gatherings

Sec. 7-5-1 Permits for Large Public Gatherings.

- (a) **Intent.**
- (1) It is the purpose of the Village Board to regulate the assemblage of large numbers of people, in excess of those normally needing the health, sanitary, fire, police, transportation and utility services regularly provided in the Village of Butler, in order that the health, safety and welfare of all persons in the Village, residents and visitors alike, may be protected.
 - (2) The purpose and intent of this Section is to establish site approval for locations in the Village of Butler used temporarily for large gatherings, as defined in Subsection (b) below, it being recognized that the character and type of such gatherings vary widely and the facilities required to carry out the general purpose and intent of this Section should be the subject of a Public Gathering Permit issued only after public hearing and a determination by the Village Board that there will be compliance with the standards set forth in this Section.
- (b) **Scope.** This Section shall apply to all public and private gatherings, rallies, assemblies or festivals at which attendance is greater than one thousand (1,000) persons for a one (1) day or more event. The requirement for a Public Gathering Permit shall not apply to events held in any regularly established permanent place of worship, stadium, school, athletic field, arena or other similar permanently established structure designed for assemblies or to church picnic events which do not exceed by more than five hundred (500) people the maximum seating capacity of the structure where the assembly is held.
- (c) **Definitions.** The following definitions shall be applicable in this Section:
- (1) **Person.** Any individual, partnership, corporation, firm, organization, company, association, society or group.
 - (2) **Assembly.** A company of persons gathered together at any location at any single time for any purpose, and may be considered a large public gathering if it falls within the definition in Subsection (b) above.
 - (3) **Public Gathering.** Shall be as defined in Subsection (b) above.

- (d) **Permit Required.** No person shall permit, maintain, promote, conduct, advertise, act as entrepreneur, undertake, organize, manage or sell or give away tickets to an actual or reasonably anticipated large gathering, whether on public or private property, unless a Public Gathering Permit to hold the assembly has first been issued by the Village Board. A permit to hold an assembly issued to one person shall permit any person to engage in any lawful activity in connection with the holding of the licensed assembly.
- (e) **Application for Permit.**
- (1) **Applicant.** Applications for a Public Gathering Permit shall be made by the owner or a person having a contractual interest in lands proposed as the site for a public or private gathering, rally, assembly or festival as defined in this Section. The application shall contain a statement made upon oath or affirmation that the statements contained therein are true and correct to the best knowledge of the applicant and shall be signed and sworn to or affirmed by the individual making application in the case of an individual, natural human being, by all officers in the case of a corporation, by all partners in the case of a partnership or by all officers of an unincorporated association, organization, society or group or, if there be no officers, by all members of such association, organization, society or group.
 - (2) **Filing Period.** An application for a Public Gathering Permit shall be filed with the Administrator not less than forty-five (45) days nor more than one hundred twenty (120) days before the date on which it is proposed to conduct the event.
- (f) **Required Application Information.** The application for a Public Gathering Permit shall contain and disclose all of the following information:
- (1) The name, residence and mailing address of all persons required to sign the application by Subsection (e)(1) above and, in the case of a corporation, a certified copy of the articles of incorporation together with the name, age, residence and mailing address of each person holding ten percent (10%) or more of the stock of such corporations.
 - (2) The name and mailing address of the promoter and/or sponsor of the gathering.
 - (3) The address and legal description of all property upon which the assembly is to be held, together with the name, residence and mailing address of the owner of record of all such property. This description shall be by plat of survey to a scale of one (1) inch equals one hundred (100) feet prepared by a registered land surveyor showing the location, boundaries, dimensions, type, elevations and size of the following: subject site, existing or proposed wells, buildings, fences, woods, streams, lakes or water courses, as well as the vertical contour interval two (2) feet above the ordinary highwater level.
 - (4) Proof of ownership of all property upon which the assembly is to be held or a statement made upon oath or affirmation by the record owner of all such property that the applicant has permission to use such property for an assembly of one thousand (1,000) or more persons.
 - (5) The nature or purpose of the assembly.

- (6) The total number of days and/or hours during which the assembly is to last.
 - (7) The maximum number of persons which the applicant shall permit to assemble at any time, not to exceed the maximum number which can reasonably assemble at the location of the assembly, in consideration of the nature of the assembly, or the maximum number of persons allowed to sleep within the boundaries of the location of the assembly by the zoning ordinances of the county if the assembly is to continue overnight.
 - (8) The maximum number of tickets to be sold, if any.
 - (9) The plans of the applicant to limit the maximum number of people permitted to assemble.
 - (10) The plans for fencing the location of the assembly and the gates contained in such fence.
 - (11) The plans for supplying potable water including the source, amount available and location of outlets.
 - (12) The plans for providing toilet and lavatory facilities including the source, number and location, type and the means of disposing of waste deposited.
 - (13) The plans for holding, collection and disposing of solid waste material.
 - (14) The plans to provide for medical facilities including the location and construction of a medical structure, the names and addresses and hours of availability of physicians and nurses, and provisions for emergency ambulance service.
 - (15) The plans, if any, to illuminate the location of the assembly including the source and amount of power and the location of lamps.
 - (16) The plans for parking vehicles including size and location of lots, points of highway access and interior roads including routes between highway access and parking lots.
 - (17) The plans for camping facilities, if any, including facilities available and their location.
 - (18) The plans for security including the number of guards, their deployment, command arrangements, and their names, addresses, credentials and hours of availability.
 - (19) The plans for fire protection including the number, type and location of all protective devices including alarms and extinguishers, and the number of emergency fire personnel available to operate the equipment.
 - (20) The plans for sound control and sound amplification, if any, including number, location and power of amplifiers and speakers.
 - (21) The plans for food concessions and concessionaires who will be allowed to operate on the grounds including the names and addresses of all concessionaires and their license or permit numbers.
 - (22) The application shall include the bond required in Subsection (g) and the permit fee.
- (g) **Bond.** The Village Board shall have authority to require the applicant and site owners to file a cash bond or establish an escrow account in an amount to be determined by the Village Board, but not exceeding One Hundred Thousand Dollars (\$100,000.00), conditioned on complete compliance by the applicant and site owner with all provisions of

this Section, the terms and conditions of the Public Gathering Permit, including cleaning up the site, and the payment of any damages, administrative and law enforcement costs, fines, forfeitures or penalties imposed by reason of violation thereof. Such bond or escrow account information shall be filed with the Administrator prior to the issuance of a permit.

- (h) **Charge for Increased Costs.** Where the Village Board determines that the cost of municipal services incident to the staging of the usage will be significantly increased because of the usage, the Village Board may require the permittee to make an additional payment into the general fund of the Village in an amount equal to the increased costs.
- (i) **Hearing; Determination.** Prior to considering an application for a Public Gathering Permit, the Village Board shall conduct a public hearing on the matter. Written notice of such hearing shall be mailed to the applicant and all property owners adjacent to the site of the proposed assembly. The Village Board shall, based on evidence presented at the hearing, make a finding of the number of persons expected to attend the event. Such finding shall be final and conclusive on the applicant for the purpose of determining the amount of the permit fee and the applicability of those standards set forth herein which are dependent upon the number of persons attending the event.
- (j) **Standards.** A Public Gathering Permit shall not be issued unless it is determined, based on evidence produced at the hearing or submitted with application materials, that the following standards are or will be met; the applicant may be required to file with the Administrator copies of properly executed contracts establishing the ability to fully provide the services required under this Section:
 - (1) For events scheduled for two (2) successive days or more, at least one (1) acre of land, exclusive of roads, parking lots and required yards shall be provided for each one hundred (100) persons attending.
 - (2) Every site proposed for a Public Gathering Permit shall be on generally well-drained ground and shall not be on ground on which storm or other waters accumulate or on ground which is wet or muddy due to subsoil moisture.
 - (3) Due to the physical characteristics of the site, the Village Board may require that the applicant shall provide proof that he/she will furnish, at his own expense, a minimum of two (2) days before the assembly commences, a snow-fence type fence completely enclosing the proposed location of sufficient height and strength to prevent people in excess of the maximum permissible number from gaining access to the assembly grounds, which shall have at least four (4) gates, at least one (1) at or near four (4) opposite points of the compass.
 - (4) The applicant shall provide proof that he/she has contracted for local EMS services to provide emergency ambulance and EMT services, at the applicant's expense, for events at which over one thousand (1,000) persons will be in attendance.
 - (5) The applicant shall provide proof that he/she will furnish, at his own expense before the assembly commences if the assembly is to continue during hours of darkness, illumination sufficient to light the entire area of the assembly at the rate of at least five (5) foot candles, but not to shine unreasonably beyond the boundaries of the enclosed location of the assembly.

- (6) The applicant shall provide proof that he/she will furnish, at his/her own expense before the assembly commences, a free parking area inside of the assembly grounds sufficient to provide parking space for the maximum number of people to be assembled at the rate of at least one (1) parking space for every four (4) persons.
- (7) The applicant shall provide proof that he/she will furnish, at his/her own expense before the assembly commences, security guards, either regularly employed, duly sworn, off-duty Wisconsin peace officers or private guards, licensed in Wisconsin, sufficient to provide adequate security for the maximum number of people to be assembled at the rate of at least one (1) security guard for every five hundred (500) people. If it is determined by the Village President that additional police protection shall be required, he/she may contact the County Sheriff's Department; and all costs for the additional protection required shall be deducted from the posted cash bond.
- (8) The applicant shall provide proof that he/she will furnish, at his/her own expense before the assembly commences, fire protection, including alarms, extinguishing devices and fire lanes and escapes, sufficient to meet all state and local standards for the location of the assembly as set forth in the Wisconsin Administrative Code and ordinances of the county and Village, and sufficient emergency personnel to efficiently operate the required equipment.
- (9) The applicant shall provide an adequate source of pure water with sufficient supply outlets for drinking and other purposes to comfortably accommodate the number of persons expected to attend the event at the rate of one (1) gallon per person per day. Where a public water supply is not available, potable water, meeting all federal and state requirements for purity, may be used. Any well or wells supplying any such site shall comply with the Wisconsin Administrative Code.
- (10) The applicant shall provide separate enclosed toilets for males and females, meeting all state and local specifications, conveniently located throughout the grounds, sufficient to provide facilities for the maximum number of people to be assembled at the rate of at least one (1) toilet for every one hundred (100) females and at least one (1) toilet for every two hundred (200) males together with an efficient, sanitary means of disposing of waste matter deposited, which is in compliance with all state and local laws and regulations; a lavatory with running water under pressure and a continuous supply of soap and paper towels shall be provided with each toilet.
- (11) The applicant shall provide a sanitary method of disposing of solid waste, in compliance with state and local laws and regulations, sufficient to dispose of the solid waste production of the maximum number of people to be assembled at the rate of at least two and one-half (2.5) pounds of solid waste per person per day, together with a plan for holding and a plan for collection of all such waste at least once each day of the assembly and sufficient trash cans with tight fitting lids and personnel to perform the task.
- (12) If the assembly is to continue overnight, camping facilities shall be provided in compliance with all state and local requirements as set forth in the Wisconsin

- Administrative Code and ordinances of the Village and county, sufficient to provide camping accommodations for the maximum number of people to be assembled.
- (k) **Reasons for Denial.** Applicants may be denied for any of the following non-exclusive reasons:
- (1) It is for a use which would involve a violation of federal or state law or any Village or county ordinance.
 - (2) The granting of the permit would conflict with another permit already granted or for which application is already pending.
 - (3) The application does not contain the information or does not properly satisfy the conditions required by this Section.
 - (4) The application is made less than the required days in advance of the proposed assembly.
 - (5) The policing of the assembly will require so large a number of persons and vehicles, including ambulances, as to prevent adequate service of the needs of the rest of the community.
 - (6) The assembly will substantially hinder the movement of police and fire and other emergency vehicles as to create a substantial risk to persons and property.
 - (7) The assembly will reasonably create a substantial risk of injury to persons or damage to property.
 - (8) The assembly use is so poorly organized that participants are likely to engage in aggressive or destructive activity.
- (l) **Class B Fermented Malt Beverage Licenses.** When fermented malt beverages are sold at any event authorized by this Section, a valid Temporary Fermented Malt Beverage license shall be obtained and applicable Village ordinances shall be fully complied with. Said license must be possessed by the person who filed for the license and shall be presented to any law enforcement officer upon request.
- (m) **Recommendations of Governmental Agencies.** The Administrator may submit a copy of the application to the County Sheriff's Department and other governmental agencies for their recommendations.
- (n) **Permit Revocation.** Any law enforcement officer, the Administrator, or the Village Board may revoke a permit already issued if it is deemed that such action is justified by an actual or potential emergency due to weather, fire, riot, other catastrophe or likelihood of a breach of the peace or by a change in the conditions forming the basis of the standards of issuance. In lieu of revoking a permit, an above-named official may require the permittee to file evidence of good and sufficient sureties, insurance in force or other evidence of adequate financial responsibility, running to the Village and such third parties as may be injured or damaged, in an amount depending upon the likelihood of injury or damage as a direct and proximate result of the holding of the usage sufficient to indemnify the Village and such third parties as may be injured or damaged thereby, caused by the permittee, its agents or participants.

- (o) **Fees.** The following fees shall be applicable under this Section:
- (1) ***Gatherings of One Thousand (1,000) to Two Thousand Five Hundred (2,500).*** A fee as prescribed by Section 1-3-1.
 - (2) ***Gatherings of Over Two Thousand Five Hundred (2,500).*** A fee as prescribed by Section 1-3-1.

Title 7 ► Chapter 6

Regulation and Licensing of Fireworks

7-6-1 Regulation of Fireworks

Sec. 7-6-1 Regulation of Fireworks.

- (a) **Definition.** In this Section, "fireworks" means anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use, but does not include any of the following:
- (1) Fuel or a lubricant.
 - (2) A firearm cartridge or shotgun shell.
 - (3) A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.
 - (4) A match, cigarette lighter, stove, furnace, candle, lantern or space heater.
 - (5) A cap containing not more than one-quarter (1/4) grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.
 - (6) A toy snake which contains no mercury.
 - (7) A model rocket engine.
 - (8) Tobacco and a tobacco product.
 - (9) A sparkler on a wire or wood stick not exceeding thirty-six (36) inches in length or 0.25 inch in outside diameter which does not contain magnesium, chlorate or perchlorate.
 - (10) A device designed to spray out paper confetti or streamers and which contains less than one-quarter (1/4) grain of explosive mixture.
 - (11) A device designed to produce an audible sound but not explode, spark, move or emit an external flame after ignition and which does not exceed three (3) grams in total weight.
 - (12) A device that emits smoke with no external flame and does not leave the ground.
 - (13) A cylindrical fountain not exceeding one hundred (100) grams in total weight with an inside tube diameter not exceeding 0.75 inch, designed to sit on the ground and emit only sparks and smoke.
 - (14) A cone fountain not exceeding seventy-five (75) grams in total weight, designed to sit on the ground and emit only sparks and smoke.

- (b) **Sale.** No person may sell or possess with intent to sell fireworks, except:
- (1) To a person holding a permit under Subsection (c)(3);
 - (2) To a municipality; or
 - (3) For a purpose specified under Subsection (c)(2)b-f.
- (c) **Use.**
- (1) **Permit Required.** No person may possess or use fireworks without a user's permit from the Village President or from an official or employee of the Village as designated by the Village Board. No person may use fireworks or a device listed under Subsection (a)(5)-(7) and (9)-(14) while attending a fireworks display for which a permit has been issued to a person listed under Subparagraph (c)(3)a-e or under Subparagraph (c)(3)f if the display is open to the general public. A fee as prescribed by Section 1-3-1 shall be paid at the time of application.
 - (2) **Permit Exceptions.** Subparagraph (c)(1) above does not apply to:
 - a. The Village, except that Village fire officials shall be notified of the proposed use of fireworks at least two (2) days in advance.
 - b. The possession or use of explosives in accordance with rules or general orders of the Wisconsin Department of Commerce.
 - c. The disposal of hazardous substances in accordance with rules adopted by the Wisconsin Department of Natural Resources.
 - d. The possession or use of explosive or combustible materials in any manufacturing process.
 - e. The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.
 - f. A possessor or manufacturer of explosives in possession of a license or permit under 18 U.S.C. 841 to 848 if the possession of the fireworks is authorized under the license or permit.
 - (3) **Who May Obtain Permit.** A permit under this Subsection may be issued only to the following:
 - a. A public authority.
 - b. A fair association.
 - c. An amusement park.
 - d. A park board.
 - e. A civic organization.
 - f. A group of resident or nonresident individuals.
 - g. An agricultural producer for the protection of crops from predatory birds or animals.
 - (4) **Crop Protection Signs.** A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.
 - (5) **Bond.** The Village President issuing a permit under this Subsection shall require an indemnity bond with good and sufficient sureties or policy of liability insurance for the payment of all claims that may arise by reason of injuries to person or property from the handling, use or discharge of fireworks under the permit. The bond or policy shall be taken in the name of the Village, and any person injured thereby may

- bring an action on the bond or policy in the person's own name to recover the damage the person has sustained, but the aggregate liability of the surety or insurer to all persons shall not exceed the amount of the bond or policy. The bond or policy, together with a copy of the permit, shall be filed in the officer of the Village.
- (6) **Required Information for Permit.** A permit under this Subsection shall specify all of the following:
- a. The name and address of the permit holder.
 - b. The date on and after which fireworks may be purchased.
 - c. The kind and quantity of fireworks which may be purchased.
 - d. The date and location of permitted use.
 - e. Other special conditions prescribed by ordinance.
- (7) **Copy of Permit.** A copy of a permit under this Subsection shall be given to the Fire Chief at least two (2) days before the date of authorized use.
- (8) **Minors Prohibited.** A permit under this Subsection may not be issued to a minor.
- (d) **Storage and Handling.**
- (1) **Fire Extinguishers Required.** No wholesaler, dealer or jobber may store or handle fireworks on the premises unless the premises are equipped with fire extinguishers approved by the Fire Chief.
 - (2) **Smoking Prohibited.** No person may smoke where fireworks are stored or handled.
 - (3) **Fire Chief to be Notified.** A person who stores or handles fireworks shall notify the Fire Chief of the location of the fireworks.
 - (4) **Storage Distance.** No wholesaler, dealer or jobber may store fireworks within five hundred (500) feet of a dwelling.
 - (5) **Restrictions on Storage.** No person may store fireworks within five hundred (500) feet of a public assemblage or place where gasoline or volatile liquid is sold in quantities exceeding one (1) gallon.
- (e) **Parental Liability.** A parent or legal guardian of a minor who consents to the use of fireworks by the minor is liable for damages caused by the minor's use of the fireworks.
- (f) **Temporary Sales of Fireworks.** Temporary or seasonal sales of fireworks from a temporary sales stand, not to exceed thirty (30) days in one (1) calendar year, is permitted only after issuance of a zoning conditional use permit as prescribed by Title 13, Chapter 1 (Village Zoning Code).

State Law Reference: Sec. 167.10, Wis. Stats.

Title 7 ► Chapter 7

Street Use Permits

7-7-1 Street Use Permits

Sec. 7-7-1 Street Use Permits.

- (a) **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 Administrator may grant a permit for street use, subject to reasonable municipal regulation and control, such as for a block party. Therefore, this Chapter 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.
- (b) **Application.** A written application for a Street Use Permit by persons or groups desiring the same shall be made on a form provided by the Village Administrator and shall be filed with the Village Administrator. A fee as prescribed by Section 1-3-1 shall be paid at the time of application. The application shall set forth the following information regarding the proposed street use:
 - (1) The name, address and telephone number of the applicant or applicants.
 - (2) 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.
 - (3) The name, address and telephone number of the person or persons who will be responsible for conducting the proposed use of the street.
 - (4) The date and duration of time for which the requested use of the street is proposed to occur.
 - (5) An accurate description of that portion of the street proposed to be used.
 - (6) The approximate number of persons for whom use of the proposed street area is requested.
 - (7) The proposed use, described in detail, for which the Street Use Permit is requested.
- (c) **Representative at 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.

- (d) **Denial of Street Use Permit.** An application for a Street Use Permit may be denied if:
- (1) The proposed street use is primarily for private or commercial gain.
 - (2) The proposed street use would violate any federal or state law or any Ordinance of the Village.
 - (3) The proposed street use will substantially hinder the movement of police, fire or emergency vehicles, constituting a risk to persons or property.
 - (4) The application for a Street Use Permit does not contain the information required above.
 - (5) The application requests a period for the use of the street in excess of five (5) days.
 - (6) The proposed use could equally be held in a public park or other location. In addition to the requirement that the application for a Street Use Permit shall be denied, as hereinabove set forth, the Village Board may deny a permit for any other reason or reasons if it concludes that the health, safety and general welfare of the public cannot adequately be protected and maintained if the permit is granted.
- (e) **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 a Certificate of Comprehensive General Liability Insurance with the Village of Butler. The applicant may be required to furnish a performance bond prior to being granted the permit.
- (f) **Termination of a Street Use Permit.** A Street Use Permit for an event in progress may be terminated by the Village President or a law enforcement officer if the health, safety and welfare of the public appears to be endangered by activities generated as a result of the event or the event is in violation of any of the conditions of the permits or ordinances of the Village of Butler. The Village President or a law enforcement officer has the authority to revoke a permit or terminate an event in progress if the event organizers fail to comply with any of the regulations in the street use policy or conditions stated in the permit.

Cross-Reference: Section 6-2-6, Street Privilege Permits

Title 7 ► Chapter 8

Adult Oriented Establishments

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Sec. 7-8-1 Definitions.

For the purpose of this Chapter, the following words and phrases shall have the following definitions:

- (a) **Adult-Oriented Establishment.** Shall include, but is not limited to, "adult bookstores", "adult motion picture theaters," "adult mini-motion picture establishments," or "adult cabarets," and further means any premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common area of the premises for the purposes of viewing adult-oriented motion pictures, or wherein an entertainer provides adult

entertainment to a member of the public, a patron or a member, whether or not such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. An "adult-oriented establishment" further includes, without being limited to, any "adult entertainment studio" or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.

- (b) **Adult Bookstore.** An establishment having as a substantial portion of its stock in trade, for sale, rent, lease, inspection or viewing books, films, video cassettes, magazines or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing or relating to "specific sexual activities" or "specified anatomical areas" as defined below, and in conjunction therewith have facilities for the presentation of adult entertainment, as defined below, including adult-oriented films, movies or live performances, for observation by patrons therein.
- (c) **Adult Cabaret.** A cabaret which features topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers.
- (d) **Adult Entertainment.** An exhibition of any motion pictures, live performance, display or dance of any type, which has as a significant or substantial portion of such performance or is distinguished or characterized by an emphasis on, any actual or simulated performance of "specified sexual activities, or exhibition and viewing of "specified anatomical areas," as defined below, appearing unclothed, or the removal of articles of clothing to reveal "specified anatomical areas".
- (e) **Adult Mini-Motion Picture Theater.** An enclosed building with a capacity of less than fifty (50) persons used for presenting material 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 areas," as defined below, for observation by patrons therein.
- (f) **Adult Motion Picture Theater.** An enclosed building with a capacity of fifty (50) or more persons used for presenting material 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 areas," as defined below, for observation by patrons therein.
- (g) **Board.** The Village Board for the Village of Butler, Wisconsin.
- (h) **Booth, Room or Cubicle.** Such enclosures as are specifically offered to the public or members of an adult-oriented establishment for hire or for a fee as part of a business operated on the premises which offers as part of its business the entertainment to be viewed within the enclosure; which shall include, without limitation, such enclosures wherein the entertainment is dispensed for a fee, but a fee is not charged for mere access to the enclosure. However, "booth", "room", or "cubicle" does not mean such enclosures that are private offices used by the owners, managers or persons employed on the premises for attending to the tasks of their employment, which enclosures are not held out to the public

or members of the establishment for hire or for a fee or for the purpose of viewing entertainment for a fee, and are not open to 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.

- (i) **Employee.** Any and all persons, including independent contractors, who work in or at or render any services directly related to the operation of an adult-oriented establishment.
- (j) **Entertainer.** Any person who provides entertainment within an adult-oriented establishment as defined in this Section, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or independent contractor.
- (k) **Operator.** Any person, partnership, or corporation operating, conducting, maintaining or owning any adult-oriented establishment.
- (l) **Specified Anatomical Areas** means:
 - (1) Less than completely and opaquely covered human genitals, pubic region, buttocks, and female breasts below the point immediately above the top of the areola;
 - (2) Human male genitals in a discernible turgid state, even if opaquely covered.
- (m) **Specified Sexual Activities** means simulated or actual:
 - (1) Showing of human genitals in a state of sexual stimulation or arousal;
 - (2) Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio or cunnilingus;
 - (3) Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.

Sec. 7-8-2 Adult Oriented Establishment Permit.

- (a) Except as provided in Subsection (e) below, from and after the effective date of this Chapter, no adult-oriented establishment shall be operated or maintained in the Village of Butler without first obtaining a permit to operate issued by the Village of Butler.
- (b) A permit may be issued only for
 - (1) Adult-oriented establishment located at a fixed and certain place. Any person, partnership, or corporation which desires to operate more than one (1) adult-oriented establishment must have a permit for each.
- (c) No permit or interest in a permit may be transferred to any person, partnership or corporation.
- (d) It shall be unlawful for any entertainer, employee or operator to knowingly work in or about, or to knowingly perform any service directly related to the operation of any adult-oriented establishment which does not have a valid permit pursuant to this Chapter.
- (e) All adult-oriented establishments existing at the time of the passage of this Chapter must submit an application for a permit within ninety (90) days of the passage of this Chapter.

If an application is not received within said ninety (90) day period, then such existing adult-oriented establishment shall cease operations.

Sec. 7-8-3 Application for Permit.

- (a) Any person, partnership or corporation desiring to secure a permit shall make application to the Village Administrator. The application shall be filed in triplicate with, and dated by, the Village Administrator. A copy of the application shall be distributed promptly by the Village Administrator to the Butler Police Department and to the applicant.
- (b) The application for a permit shall be upon a form provided by the Village Administrator. An applicant for a permit shall furnish the following information under oath:
 - (1) The names (including all aliases), addresses, and dates of birth of the applicant and any partner or limited partner in a partnership applicant; and any officer, director, and shareholder holding more than ten percent (10%) of the stock of a corporate applicant.
 - (2) Written proof that any person required to be named under Subsection (b)(1) above is at least eighteen (18) years of age.
 - (3) The exact nature of the adult use to be conducted and the proposed address of the adult-oriented establishment to be operated.
 - (4) Whether any person required to be named under Subsection (b)(1) is currently operating, or has previously operated, in this or any other county, city or state under an adult-oriented establishment permit or similar business permit or license; whether the applicant has ever had such a permit revoked or suspended, the reason therefor, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.
 - (5) If the applicant is a corporation, the application shall also specify the name of the corporation, the date and state of incorporation, and the name and address of the registered agent.
- (c) Within thirty (30) days of receiving an application for a permit the Village Administrator shall notify the applicant whether the application is granted, denied, or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigation, the Village Administrator shall advise the applicant in writing whether the application is granted or denied.
- (d) Whenever an application is denied or held for further investigation, the Village Administrator shall advise the applicant in writing of the reasons for such action, and that the applicant has the right to request a review of said determination pursuant to Sec. 68.08, Wis. Stats.
- (e) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place

for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this Chapter shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the Village Administrator.

Sec. 7-8-4 Standards for Issuance of Permit.

- (a) To receive a permit to operate an adult-oriented establishment, an applicant must meet the following standards: If the applicant is an individual:
 - (1) The applicant shall be at least eighteen (18) years of age.
 - (2) The applicant shall not have been found to have previously violated this Chapter within five (5) years immediately preceding the date of the application.
 - (3) Subject to Sections 111.321, 111.322 and 111.335, Wis. Stats., the applicant shall not have been convicted of or pleaded nolo contendere to a felony or any offense involving moral turpitude, prostitution, obscenity or other offense of a sexual nature in any jurisdiction within the five (5) years immediately preceding the date of the application unless the applicant has been duly pardoned.
- (b) If the applicant is a corporation:
 - (1) All officers, directors, shareholders and agents required to be named under Section 7-8-3(b)(1) shall be at least eighteen (18) years of age.
 - (2) No officer, director, or shareholder required to be named under Section 7-8-3(b)(1) shall have been found to have previously violated this Chapter within five (5) years immediately preceding the date of the application.
 - (3) Subject to Sections 111.321, 111.322 and 111.335, Wis. Stats., no officer, director, shareholder, or agent required to be named under Section 7-8-3(b)(1) shall have been convicted of or pleaded nolo contendere to any offense involving moral turpitude, prostitution, obscenity or other offense of a sexual nature in any jurisdiction within the five (5) years immediately preceding the date of the application unless he or she has been duly pardoned.
- (c) If the applicant is a partnership, joint venture, or any other type of organization where two (2) or more persons have a financial interest:
 - (1) All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age.
 - (2) No person having a financial interest in the partnership, joint venture or other type of organization shall have been found to have violated any provision of this Chapter within five (5) years immediately preceding the date of the application.
 - (3) Subject to Sections 111.321, 111.322 and 111.335, Wis. Stats., no person having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of or pleaded nolo contendere to any offense involving moral turpitude, prostitution, obscenity or other offense of a sexual nature in any jurisdiction

within the five (5) years immediately preceding the date of the application unless he or she has been duly pardoned.

Sec. 7-8-5 License Required.

In addition to the permit requirements previously set forth for owners and operators of "adult-oriented establishments", no person shall be an employee in an adult-oriented establishment without first obtaining a valid license issued by the Village Administrator.

Sec. 7-8-6 Application for License.

- (a) Any person desiring to secure a license shall make application to the Village Administrator. The application shall be filed in triplicate with and dated by the Village Administrator. A copy of the application shall be distributed to the Butler Police Department and to the applicant.
- (b) The application for a license shall be upon a form provided by the Village Administrator. An applicant shall furnish the following information under oath:
 - (1) Name, age, and address, including all aliases.
 - (2) Written proof that the individual is at least eighteen (18) years of age.
 - (3) Whether the applicant, while previously operating in this or any other municipality or state under an adult-oriented establishment license or similar business permit or license, has ever had such a license or permit revoked or suspended, the reason therefor, and the business entity or trade name for whom applicant was employed or associated at the time of such suspension or revocation.
- (c) Within thirty (30) days of receiving an application for a license the Village Administrator shall notify the applicant whether the application is granted, denied, or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigation, the Village Administrator shall advise the applicant in writing whether the application is granted or denied.
- (d) Whenever an application is denied or held for further investigation, the Village Administrator shall advise the applicant in writing of the reasons for such action, and that the applicant has the right to request a review of said determination pursuant to Sec. 68.08, Wis. Stats.
- (e) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this Chapter shall constitute an admission by

the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the Village Administrator.

Sec. 7-8-7 Standards for Issuance of License.

To receive a license as an employee for an adult-oriented establishment, an applicant must meet the following standards:

- (a) The applicant shall be at least eighteen (18) years of age.
- (b) The applicant shall not have been found to have previously violated this Chapter within five (5) years immediately preceding the date of the application.
- (c) Subject to Sections 111.321, 111.322 and 111.335, Wis. Stats., the applicant shall not have been convicted of or pleaded nolo contendere to any offense involving moral turpitude, prostitution, obscenity or other offense of a sexual nature in any jurisdiction within the five (5) years immediately preceding the date of the application unless the applicant has been duly pardoned.

Sec. 7-8-8 Fees.

- (a) A permit fee as prescribed in Section 1-3-1 shall be submitted with the application for a permit. If the application is denied, one-half (1/2) of the fee shall be returned.
- (b) A license fee as prescribed in Section 1-3-1 shall be submitted with the application for a license. If the application is denied, one-half (1/2) of the fee shall be returned.

Sec. 7-8-9 Display of Permit or License.

- (a) The permit shall be displayed in a conspicuous public place in the adult-oriented establishment.
- (b) The license shall be carried by an employee upon his or her person and shall be displayed upon request of any member of the Butler Police Department or any person designated by the Board.

Sec. 7-8-10 Renewal of Permit or License.

- (a) Every permit issued pursuant to this Chapter will 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. Any operator desiring to renew a permit shall make application to the Village Administrator. The application for renewal must be filed not later

than sixty (60) days before the permit expires. The application for renewal shall be filed in triplicate with and dated by the Village Administrator. A copy of the application for renewal shall be distributed promptly by the Village Administrator to the Butler Police Department and to the operator. The application for renewal shall be upon a form provided by the Village Administrator and shall contain such information and data, given under oath or affirmation, as is required for an application for a new permit.

- (b) A permit renewal fee as prescribed in Section 1-3-1 shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of One Hundred Twenty-five Dollars (\$125.00) shall be assessed against any applicant who files for a renewal less than sixty (60) days before the permit expires. If the application is denied, one-half (1/2) of the total fees collected shall be returned.
- (c) If the Butler Police Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the Village Administrator.
- (d) Every license issued pursuant to this Chapter shall terminate at the expiration of one (1) year from the date of issuance unless sooner revoked, and must be renewed before an employee is allowed to continue employment in an adult-oriented establishment. Any employee desiring to renew a license shall make application to the Village Administrator. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the Village Administrator. A copy of the application shall be distributed promptly by the Village Administrator to the Butler Police Department and to the employee. The application shall be upon a form provided by the Village Administrator and shall contain such information and data, given under oath or affirmation, as is required for a new license.
- (e) A license renewal fee as prescribed in Section 1-3-1 shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of Fifty Dollars (\$50.00) shall be assessed against any applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, one-half (1/2) of the total fees collected shall be returned.
- (f) If the Butler Police Department is aware of any information bearing on the employee's qualifications, that information shall be filed in writing with the Village Administrator.

Sec. 7-8-11 Revocation of Permit or License.

- (a) A permit or license issued under this Chapter shall be revoked for any of the following reasons:
 - (1) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.
 - (2) The operator, entertainer, or any employee of the operator, violates any provision of this Chapter or any rule or regulation adopted by the Village Board pursuant to this

Chapter; provided, however, that in the case of a 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 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.

- (3) The operator or employee becomes ineligible to obtain a permit.
 - (4) An operator employs an employee who does not have a license or provides space on the premises, whether by lease or otherwise, to an independent contractor who performs or works as an entertainer without a license.
 - (5) Any cost or fee required to be paid by this Chapter is not paid.
 - (6) Any intoxicating liquor or cereal malt beverage, narcotic, or controlled substance is served or consumed on the premises of the adult-oriented establishment.
 - (7) Any operator, employee or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any adult-oriented entertainment or adult-oriented material.
- (b) (1) The Village Administrator, upon making an initial determination that a violation of this Chapter has occurred, shall serve written notice of said violation(s) on the operator or employee. Said written notice shall include specific charges and shall provide the operator or employee with notice that revocation or suspension of the permit or license will occur unless a written request for a review of the Village Administrator's decision is made to the Board of Trustees within thirty (30) days after service of said notice to the operator or employee. Unless otherwise extended by an agreement with the aggrieved party, within fifteen (15) days of receipt of a request for review, the Village Board shall conduct a hearing pursuant to Sec. 68.11, Wis. Stats., at which time the operator or employee may present evidence bearing upon the question. The appellant shall be provided with written notice of such hearing by mail or personal service at least ten (10) days before such hearing. A final determination shall be made by the Village Board pursuant to Sec. 68.12, Wis. Stats.
- (2) The provisions of Subsection (b)(1) above shall not be construed to abridge the authority or responsibilities of the Butler Police Department to enforce this Chapter or to issue any citation(s) or complaints for violations of this, or any other, ordinance, county, state, or federal law.
- (c) The transfer of a permit or license or any interest in a permit or license shall automatically and immediately revoke the permit or license.
- (d) Any operator or employee whose license is revoked and who seeks to obtain a license under this Chapter must apply for a license according to the application provisions set forth in this Chapter and must meet the standards for the issuance of a permit or license as set forth in this Chapter. No location or premises for which a permit has been issued shall be used as an adult-oriented establishment for six (6) months from the date of revocation of the permit.

Sec. 7-8-12 Location.

- (a) No adult-oriented establishment shall be located:
 - (1) Within five hundred (500) feet of an existing adult-oriented establishment,
 - (2) Within five hundred (500) feet of any residential dwelling, or
 - (3) Within five hundred (500) feet of any pre-existing school or place of worship, or an establishment that in any manner sells or dispenses alcohol.
- (b) For purposes of this Chapter, distances are to be measured in a straight line, without regard to intervening structures or objects, from the property line of the adult-oriented establishment, to the nearest property line of another adult-oriented establishment, school, place of worship, or residential dwelling.

Sec. 7-8-13 Hours of Operation.

- (a) No adult-oriented establishment shall be open between the hours of 2:00 a.m. and 8:00 a.m. on weekdays or between the hours of 3:00 a.m. and 12:00 noon on Sundays.
- (b) All adult-oriented establishments shall be open to inspection at all reasonable times by the Butler Police Department and the Building Inspector.

Sec. 7-8-14 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:

- (a) **Access.** 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.
- (b) **Construction.** Every booth, room or cubicle shall meet the following construction requirements:
 - (1) Each booth, room or cubicle shall be separated from adjacent booths, rooms or cubicles and any non-public areas by a wall.
 - (2) Have at least one (1) side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying the same.
 - (3) 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, non-absorbent, smooth textured and easily cleanable.
 - (4) The floor must be light floored, non-absorbent, smooth textured and easily cleanable.
 - (5) The lighting level of each booth, room or cubicle, when not in use shall be a minimum of ten (10) foot candles at all times, as measured from the floor.

- (c) **Occupants.** Only one (1) individual shall occupy a booth, room or cubicle at any time. No occupant of same shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth. No individual shall damage or deface any portion of the booth.
- (d) **View From Street.** No adult-oriented establishment shall be situated in such manner as to allow public view of either its stock in trade or adult entertainment from outside of the establishment.

Sec. 7-8-15 Responsibilities of the Operator.

- (a) The operator shall maintain a register of all employees, showing the name, and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, telephone numbers, date of employment and termination, and duties of each employee and such other information as may be required by the Board. The above information on each employee shall be maintained in the register on the premises for a period of one (1) year following termination of the employee and shall be made immediately available for inspection upon demand of a member of the Butler Police Department at all reasonable times.
- (b) Every act or omission by an employee constituting a violation of the provisions of this Chapter shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.
- (c) Any act of omission of any employee constituting a violation of the provisions of this Chapter shall be deemed the act or omission of the operator for purposes of determining whether the operator's permit shall be revoked, suspended or renewed.
- (d) There shall be posted and conspicuously displayed in the common areas of each adult-oriented establishment a list of any and all entertainment provided on the premises. Said list shall further indicate the specific fee or charge in dollar amounts for each entertainment listed. Viewing adult-oriented motion pictures shall be considered as entertainment. The operator shall make the list available immediately upon demand of the Butler Police Department at all reasonable times.
- (e) No employee of an adult-oriented establishment shall allow any minor to loiter around or to frequent an adult-oriented establishment or to allow any minor to view adult entertainment as defined herein.
- (f) The operator shall maintain the premises in a clean and sanitary manner at all times.
- (g) The operator shall maintain at least ten (10) foot candles of light in the public portions of the establishment, including aisles, at all times. However, if a lesser level of 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) foot candle of illumination in said aisles, as measured from the floor.

- (h) The operator shall insure compliance of the establishment and its patrons with the provisions of this Chapter.

Sec. 7-8-16 Administrative Procedure and Review.

Chapter 68, Wis. Stats., concerning municipal administrative procedure shall govern the administrative procedure and review concerning the granting, denial, renewal, or non-renewal of a permit or license. A request for an initial determination made by an aggrieved person pursuant to the provisions contained in Sec. 68.08, Wis. Stats., shall be made to the Village Administrator. An administrative appeal pursuant to the provisions contained in Sec. 68.10, Wis. Stats., may be made by an aggrieved person to the Board of Appeals and a hearing shall be held by the Board of Appeals pursuant to Sec. 68.11, Wis. Stats. Any party to a proceeding resulting in a final determination may seek judicial review pursuant to the provisions contained in Sec. 68.13, Wis. Stats.

Sec. 7-8-17 Exclusions.

All private schools, and public schools, as defined in Chapter 115, Wis. Stats., located within the Village of Butler are exempt from obtaining a permit hereunder when instructing pupils in sex education as part of its curriculum.

Sec. 7-8-18 Penalties and Prosecution.

- (a) Any person, partnership or corporation who is found to have violated this Chapter shall be fined a definite sum of not less than Two Hundred Fifty Dollars (\$250.00) and not more than Seven Hundred Fifty Dollars (\$750.00). In addition to the monetary penalty imposed, violation of this Chapter shall further result in the revocation of any permit issued under this Chapter.
- (b) Each violation of this Chapter shall be considered a separate offense, and any violation continuing more than one (1) day shall be considered a separate offense.

Sec. 7-8-19 Enforcement.

The Village of Butler Police Department shall have the authority to enter any adult-oriented establishment at all reasonable times to inspect the premises and enforce this Chapter.

Title 7 ► Chapter 9

Secondhand Dealers

7-9-1 Secondhand Dealers

Sec. 7-9-1 Secondhand Dealers.

- (a) **License Required.** The Village Board may grant licenses to any person who produces satisfactory evidence as to his good character to exercise or carry on the business of dealing in secondhand furniture, clothes, vehicles, machinery, and accessories to machinery or vehicles, or other articles of merchandise in the Village.
- (b) **Fee.** The license fee for a secondhand dealer is as prescribed in Section 1-3-1.
- (c) **Record of Purchases.** Every such dealer shall keep a book in which shall be fairly written, at the time of the purchase of any article or thing in the way of his business, an accurate account and description of the article or things so purchased, the precise time of making such purchase and the name and residence of the person from whom such purchase was made.
- (d) **Report of Purchases.** Every licensed secondhand dealer shall make out and deliver to the Chief of Police every day before 3:00 p.m., a legible and correct copy, from his/her purchase book of each article and thing purchased during the preceding day, the precise time of the purchase and the names and residence of the persons from whom such purchases were made.
- (e) **Inspection of Records.** The purchase book shall at all reasonable times be open to inspection by any member of the police force.
- (f) **Location of Business.** Every license granted any dealer in secondhand articles shall designate the house or place in which the person receiving such license shall carry on such business, and such business shall be carried on only at such designated place.
- (g) **Purchases From Minors.** No dealer in secondhand articles shall purchase any goods, articles or things from any minor under the age of eighteen (18) years, without written consent of parent or guardian of such minor.
- (h) **Purchases at Night.** No dealer in secondhand articles shall purchase in his/her business, any goods, articles, or things, between 10:00 p.m. and 6:00 a.m. on any day of the year.
- (i) **Lost or Stolen Articles.** If any goods, articles or things are advertised in any daily newspaper published or circulated in the Village, as having been lost or stolen and if the

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goods, articles or things or any such answering to the description advertised or any part or portion thereof shall come in possession of any dealer in secondhand articles, he/she shall forthwith give information thereof in writing at the office of the Chief of Police and shall also state from whom the same were received.

- (j) **Exhibition to Police.** Every dealer in secondhand articles who shall receive or be in possession of any goods, articles or things which may have been lost or alleged or supposed to have been lost or stolen shall forthwith on demand exhibit the same to the Village President, Chief of Police or any law enforcement officer.

Cross-Reference: Section 7-10-1.

Title 7 ► Chapter 10

Dealers in Coins, Valuable Metals and Precious or Semi-Precious Stones

7-10-1	Definitions
7-10-2	License and Permit Requirements
7-10-3	License and Permit Applications
7-10-4	Investigation
7-10-5	Issuance; Terms
7-10-6	Regulations
7-10-7	License and Permit Renewal and Revocation
7-10-8	Penalty

Sec. 7-10-1 Definitions.

In this Chapter:

- (a) **Covered Article.** Means coins, bullion and any article containing gold, silver, copper, brass, lead or any other metal having a market value equal to or greater than brass or precious or semi-precious stones.
- (b) **Member of the General Public.** Means individuals, partnerships, corporations or other associations.
- (c) **Precious Metal and Gem Dealer.** Means any person, firm, corporation, partnership or association in the business, either permanently or temporarily, of buying, selling or receiving any covered article to and from the general public within the Village of Butler.

Cross-Reference: Section 7-9-1.

Sec. 7-10-2 License and Permit Requirement.

- (a) **When License or Permit is Required.** No precious metal or gem dealer, as defined in this Section, shall engage in the business, either permanently or temporarily, of dealing in, selling or exchanging covered articles without first having obtained a license or permit as provided in this Section.

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(b) When License or Permit is Not Required.

- (1) No license or permit shall be required, nor shall the provisions of this Subsection apply to occasional, "garage" or yard sales. In this paragraph, "occasional" means one (1) time during any calendar year.
- (2) Transactions between dealers licensed under this Section or businesses regularly purchasing their stock from regularly established wholesalers, dealers or suppliers publicly doing business as such.
- (3) Transactions involving the purchase of grindings, filings, slag, sweeps, scraps or dust from an industrial manufacturer, dental laboratory, dentist or agent thereof.
- (4) Transactions involving the purchase of photographic film, such as lithographic and x-ray processing.

(c) When Permit is Required. A permit, but no license, shall be required for estate sales, coin, gem or antique shows and sales of covered articles at conventions or auctions.

Sec. 7-10-3 License and Permit Applications.

Applications for a precious metal and gem dealers license or permit, as prescribed in Section 7-10-2, shall be made to the Village Administrator's office on forms furnished by it, containing the following information:

- (a) Name, place and date of birth and street residence of the applicant.
- (b) The trade name, address of business and the name and address of the owner of the premises.
- (c) A statement whether the applicant has been convicted of any crime, including misdemeanors and municipal ordinance violations, the place and date of the offense and the nature thereof and whether any prosecution for the foregoing is pending.
- (d) Whether the applicant is a natural person, corporation or partnership:
 - (1) If the applicant is a corporation, the state of incorporation and the names and addresses of all its officers and directors.
 - (2) If the applicant is a partnership, the names and addresses of all partners.
 - (3) Names of the manager or proprietor of the business, all employees or other persons who would be actively engaged in buying, selling or appraising any covered articles.
- (e) Such other pertinent information as the Village Administrator may, from time to time, require.
- (f) A statement that the applicant agrees to be photographed and to have his fingerprints taken in order to aid the Police Department in conducting an investigation as to the applicant's fitness to receive the license or permit.

Sec. 7-10-4 Investigation.

The Police Department shall conduct an investigation as to each applicant's fitness to receive a license or permit and shall furnish to the Village Administrator, in writing, the information derived from such investigation.

Sec. 7-10-5 Issuance; Terms.

- (a) **Approval.** The Village Board may authorize or deny a license or permit.
- (b) **License Ineligibility.** No license or permit under this Section shall, subject to Sections 111.321, 111.322, and 111.335, Wis. Stats., be granted to any applicant who is not of good professional character; who has an arrest record or a conviction record consisting of any felony, misdemeanor or other offense, the circumstances of which substantially relate to the circumstances of being a dealer under this Chapter; who has habitually been a law offender; or who has been convicted of a felony, unless the applicant has been duly pardoned. In this Section, "applicant" includes any individual or partner and any officer, director or agent of any corporate applicant.
- (c) **False Application.** No license or permit shall be granted to any person who makes a misstatement of fact on his/her application for such license or permit.
- (d) **State Residency Requirement.** No license or permit shall be granted to any person who has not resided in the State of Wisconsin continuously for a period of at least one (1) year prior to the date of filing his application.
- (e) **Fees.** The annual fee for a license or permit shall be as prescribed in Section 1-3-1.
- (f) **Term of License and Permit.** The term of a license shall be one (1) year from the date of granting thereof, and a permit for up to five (5) days.

Sec. 7-10-6 Regulations.

- (a) **Dealer to Identify Seller.** No precious metal and gem dealer shall purchase any covered articles without first securing adequate identification from the seller. At the time of such transaction, the dealer shall require the seller to present to him/her one (1) of the following types of identification:
 - (1) A government-issued identification card.
 - (2) Valid Wisconsin motor vehicle operator's license.
 - (3) State of Wisconsin identification card.
 - (4) Valid motor vehicle operator's license containing a picture issued by another state.
 - (5) Military identification card.
 - (6) Valid passport.
 - (7) Alien registration card.
 - (8) Senior citizen identification card containing a photograph.
- (b) **Buying from Minor.** No precious metal and gem dealer shall have any business dealings with any person less than eighteen (18) years of age, unless that person is with a parent or guardian, or the parent or guardian appears with that person and files a signed consent form indicating permission for the person to transact business with the seller.
- (c) **Dealer to Maintain Register and Obtain Declaration of Seller's Ownership.**
 - (1) Every precious metal and gem dealer licensed under this Section shall keep a register in a permanent bound book in which the dealer shall record, legibly and in English,

the name, address, date of birth of the seller, driver's license number or number of other identification specified under Subsection (a) hereof. The dealer shall also record the date, time and place of the purchase and an accurate and detailed account and description of each covered article being purchased, including, but not limited to, any trademark, identification number, model number, brand name, description by weight and design of such covered article and other identifying marks, including identification inscriptions of a personal nature and, when applicable, whether the article is a male or female item. Entries in the book shall be in ink, and no entries shall be erased, mutilated or changed.

- (2) The dealer shall also obtain a written declaration of the seller's ownership which shall state whether the article is totally owned by the seller, how long the seller has owned the article and whether the seller or someone else found the covered article and, if the article was found, the details of the finding.
- (3) The seller shall sign his name in such register and on the declaration of ownership.
- (4) Such register shall be made available to any police officer for inspection and/or copying at any reasonable time.

(d) **Holding Period.**

- (1) Any covered article purchased by a precious metal and gem dealer from a member of the general public shall be kept on the dealer's premises in the form that it was received for not less than thirty (30) days from the date of purchase, during which time the article shall be held separate and apart from any other articles and shall not be changed or altered in any manner. The dealer shall permit any police officer to inspect the article during such holding period.
- (2) Any police officer, in his/her discretion, may cause any such article which he has reason to believe was not sold or exchanged by the lawful owner, to be held for the purpose of identification for such reasonable length of time as such officer deems necessary.
- (3) Gold and silver bullion and coins shall not be subject to the requirements imposed by Subsections (d)(1) and (2).

(e) **Reports Required.**

- (1) Every dealer shall provide the Police Department, on a form to be provided by the Department, a record of all covered articles, including gold or silver coins or bullion, purchased from any person. The form shall include a copy of the seller's declaration of ownership. The form for recording such purchases shall contain the same information required to be recorded in the dealer's register pursuant to Section 7-10-6 hereof. The Police Department shall designate the days on which the records and declarations shall be picked up by the Police Department.
- (2) The Police Department may forward copies of such records and declarations of ownership to any other law enforcement agency.

Sec. 7-10-7 License and Permit Renewal and Revocation.

The Village Board may revoke or refuse to renew any license or permit for any one (1) of the following reasons:

- (a) Fraud, misrepresentation or false statement contained in the application therefor.
- (b) The licensee or permittee is not of good professional character.
- (c) Subject to Sections 111.321, 111.322, and 111.335, Wis. Stats., the licensee or permittee has an arrest record or a conviction record consisting of any felony, misdemeanor, or other offense, the circumstances of which substantially relate to the circumstances of being a dealer under this Chapter.
- (d) The licensee or permittee has habitually been a law offender.
- (e) The licensee or permittee has been convicted of a felony, unless duly pardoned.

Sec. 7-10-8 Penalty.

Any person violating any provision of Sections 7-10-1 through 7-10-6 shall, upon conviction of such violation, be subject to the penalties as prescribed by Section 1-1-6 of this Code.

Title 7 ► Chapter 11

Processions, Parades, Runs, Walks, Bicycle Races and Marathons

7-11-1	Purpose; Definitions
7-11-2	Permit Requirements

Sec. 7-11-1 Purpose; Definitions.

- (a) **Purpose.** The Village of Butler recognizes that Village streets and highways are primarily for the use of vehicular travel. It further recognizes a need to use these public streets and highways for processions, parades, runs, walks, bicycle races, marathons, etc., which do not substantially interfere with the public's right to travel on such streets and highways. This Chapter is intended to regulate and control nonvehicular use of the streets and highways and for protecting the general welfare and safety of the persons using the streets and highways within the Village. Said authority to regulate is contained in Sec. 349.185, Wis. Stats., and related sections.
- (b) **Definitions.** As used in this Chapter:
- (1) "Processions, parades, runs, walks, marathons, bicycle races, etc.," means their usual and customary usage.
 - (2) "Highways" or "streets" have the meaning set forth in Sec. 340.01, Wis. Stats., and also include areas owned by the Village of Butler which are used primarily for pedestrian or vehicular traffic.

Sec. 7-11-2 Permit Requirements.

- (a) **Permit Required.** No person shall form, direct, lead or participate in any procession, parade, run, walk, marathon, bicycle race, etc., on any street or highway under the jurisdiction of the Village unless a permit has been obtained in advance as provided in this Chapter.
- (b) **Exemptions from Permit Requirement.** A permit 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 permit, however, shall be exempt from the parade permit fee and insurance requirements contained herein.

- (c) **When Application Must Be Made.** A written application for a permit for any above-described function on the streets and highways under the jurisdiction of the Village shall be made by one (1) of the organizers or officers to the Village Administrator on a form provided by said Administrator no less than fifteen (15) days prior to the usage. Application made less than forty-five (45) days prior to the day of the proposed usage must be made in person.
- (d) **Information Required in Application.** The application shall set forth the following information regarding the proposed usage:
 - (1) The name, address and telephone number of the applicant.
 - (2) If the usage is proposed 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 authorized and responsible heads of such organization.
 - (3) The name, address and telephone number of the person who will be responsible for conducting the usage.
 - (4) The date when the usage is to be conducted and its duration.
 - (5) The assembly area, the starting point, the route to be traveled and the termination point.
 - (6) The number and size of participants or units comprising the usage.
 - (7) If the usage is to be conducted by or for any person other than the applicant, the applicant for such permit shall file with the Village Administrator a communication in writing from the person proposing to hold the usage authorizing the applicant to apply for the permit on its behalf.
 - (8) Any additional information which the Village Administrator finds reasonably necessary for a fair determination as to whether a permit should be issued.
- (e) **Recommendations of Governmental Agencies.** The Village Administrator shall submit a copy of the application to the Chief of Police.
- (f) **Basis for Discretionary Denial of Permit.** The application may be denied:
 - (1) If it is for a usage that is to be held on a work day during hours when and at places where, in addition to the proposed usage, the flow of vehicular traffic is usually delayed by its own volume.
 - (2) If it is for a usage that is to be commenced between the hours of 9:00 p.m. and 9:00 a.m.
 - (3) If sufficient usage marshals are not provided as to reasonably assure the orderly conduct of the usage.
 - (4) If proposed route for conducting usage involves a street or highway under construction or detour route.
- (g) **Mandatory Denial of Permit.** The application shall be denied:
 - (1) If it is made less than fifteen (15) days in advance of the time the usage is scheduled to commence; or

- (2) If it is for a usage that is primarily for private or commercial economic gain; or
 - (3) If it is for a usage which would involve violation of federal, state or local laws relating to use of highways or of other applicable regulations of the Village; or
 - (4) If the granting of the permit would conflict with another permit already granted or for which application is already pending; or
 - (5) If the application does not contain the information required by Subsection (d); or
 - (6) If more than one (1) assembly area or more than one (1) dispersal area is proposed; or
 - (7) Failure to receive permit under Sec. 84.07(4), Wis. Stats.
- (h) **Permit Issued Unless Threat to Public Safety.** The Village Administrator shall issue a permit to the applicant subject to the foregoing requirements of this Chapter, unless the Administrator concludes that:
- (1) The policing of the usage will require so large a number of persons and vehicles, including ambulances, as to prevent adequate service of the needs of the rest of the municipality; or
 - (2) The usage will substantially hinder the movement of police and fire and other emergency vehicles as to create a substantial risk to persons and property; or
 - (3) The conduct of the usage will substantially interrupt the safe and orderly movement of other traffic contiguous to its route; or
 - (4) The usage is so poorly organized that participants are likely to engage in aggressive or destructive activity.
- (i) **Grant or Denial of Permit.**
- (1) **Time When Required.** The Village Administrator shall act as promptly as he reasonably can on all applications for permits after consulting with other government agencies directly affected and after consulting with the applicant, if necessary. All applications filed forty-five (45) days or more in advance shall be granted or denied not less than thirty (30) days before the date of the usage stated in the application. Action on applications filed less than forty-five (45) days in advance shall be taken within fifteen (15) days after the application is filed, but in no case later than forty-eight (48) hours in advance of the time applied for. The Village Administrator shall immediately, by the most reasonable means of communication, notify the applicant of such action and, if the application is denied, the reasons for denial of the permit.
 - (2) **Modification of Requested Permit.** In lieu of denying a permit, the Village Administrator may authorize the changing of assembly areas or dispersal areas or the conducting of the usage at a date or time or over a route different than as applied for in the permit. The applicant or permittee may accept such modification by immediately notifying the Village Administrator in writing of such acceptance.
- (j) **Fee.** There shall be paid at the time of filing the application for a usage permit a fee as prescribed in Section 1-3-1.
- (k) **Charge for Increased Costs.** Where the Village Administrator determines that the cost of municipal services incident to the staging of the usage will be increased because of the

usage, the Administrator may require the permittee to make an additional payment into the general fund of the Village in an amount equal to the increased costs.

- (l) **Emergency Revocation.** The Village President, Village Administrator, or Chief of Police may revoke a permit already issued if the official deems that such action is justified by an actual or potential emergency due to weather, fire, riot, other catastrophe or likelihood of a breach of the peace, or by a major change in the conditions forming the basis of the standards of issuance. In lieu of revoking a permit, an above-named official may require the permittee to file evidence of good and sufficient sureties, insurance in force or other evidence of adequate financial responsibility, running to the Village of Butler and such third parties as may be injured or damaged, in an amount depending upon the likelihood of injury or damage as a direct and proximate result of the holding of the usage sufficient to indemnify the municipality and such third parties as may be injured or damaged thereby, caused by the permittee, its agents or participants.
- (m) **Usage Permit Contents.** Each usage permit shall state such information as the Village Administrator shall find necessary to the enforcement of this Chapter.
- (n) **Copies of Usage Permit Distributed.** Immediately upon the issuance of a usage permit, the Village Administrator shall send a copy thereof to the following:
 - (1) Each public transportation utility whose regular service will be affected by the usage.
 - (2) Chief of Police, Village Administrator and Village President.
- (o) **Compliance With Regulations.**
 - (1) **Permittee.** A permittee under this Chapter shall comply with all permit directions and conditions and with all applicable laws, ordinances and other regulations of the state and Village.
 - (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.
 - (3) **Throwing Objects.** No candy, gum, balloons or other objects shall be thrown or disbursed from parade floats or vehicles.
- (p) **Insurance Required.** Prior to issuance of the permit by the Village Administrator, each permittee shall furnish evidence of a liability insurance policy in amounts of not less than One Hundred Thousand Dollars (\$100,000.00) for one (1) person and Five Hundred Thousand Dollars (\$500,000.00) for any one (1) accident 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 Butler as an additional insured in connection with said usage.

Title 7 ► Chapter 12

Regulation and Licensing of Amusement Devices

7-12-1 Amusement Device License

Sec. 7-12-1 Amusement Device License.

- (a) **Definitions.** The following definitions shall be applicable in this Chapter:
- (1) **Amusement Arcade.** Any premises operated by any organization, whether incorporated or not, which is the owner, lessee, or occupant of a building whose primary purpose or object of its existence or operation is that of providing use of "amusement devices" to the public at retail, and/or any premises operated by any organization, whether incorporated or not, which is the owner, lessee or occupant of a building, the majority of whose gross receipts are derived from the providing of use of "amusement devices" to the public at retail.
 - (2) **Amusement Device.** Any table, platform, mechanical device, or apparatus operated or intended to be operated for amusement, pleasure, test of skill, competition, or sport, the use or operation of which is conditioned upon payment or consideration either by insertion of coin or token in a slot or otherwise. Such amusement device shall include, but not be limited to, devices commonly known as baseball, football, basketball, hockey, pinball, shuffleboard, ray guns, bowling games, bumper games, skiball, electronic video games, and shall also include billiard tables and pool tables (whether coin operated or not). Such definition does not include a bowling alley, juke box or other coin operated music machine or a mechanical children's amusement riding device.
- (b) **Amusement Device License.**
- (1) **License Required.** No person, firm, or corporation shall operate or keep an amusement device, as defined herein, without having obtained and posted on the premises, in plain view, a license to operate such device. Application shall be made to the Village Administrator on the form provided by such office, accompanied by an application fee as prescribed in Section 1-3-1, which shall cover the cost of processing the application and shall be non-refundable. Each device requires a separate license, which requires annual renewal. The application shall set forth the following information:

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- 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.
- 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 principal officers and registered agent thereof.
- c. 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.

Title 7 ► Chapter 13

Licenses to Pay Local Claims; Appellate Procedures

- 7-13-1** Licenses Required to Pay Local Taxes, Assessments
and Claims; Appellate Procedures
- 7-13-2** Issuance of Licenses

Sec. 7-13-1 Licenses Required to Pay Local Taxes, Assessments and Claims.

- (a) **Nonpayment of Taxes or Forfeitures.** The Village shall not issue or renew any license to transact any business within the Village of Butler:
- (1) For any purposes for which taxes, assessments or other claims of the Village are delinquent and unpaid.
 - (2) For any person who is delinquent in payment:
 - a. Of any taxes, assessments or other claims owed the Village; or
 - b. Of any forfeiture resulting from a violation of any Village Ordinance.
- (b) **Applicability.** This Section shall apply to licenses issued pursuant to the provisions of Title 7 of this Code of Ordinances, except Chapters 1 and 5.
- (c) **Denial of Renewal.** An application for renewal of a license subject to this Chapter shall be denied pursuant to the provisions of Subsection (a) only following notice and opportunity for hearing as provided by Subsection (d) below.
- (d) **Hearing.** Prior to any denial of an application for renewal of a license, including denials pursuant to Subsection (a), the applicant shall be given notice and opportunity for a hearing as hereinafter provided:
- (1) With respect to licenses renewable under Chapter 2 of Title 7 of this Code of Ordinances, notice and opportunity for hearing shall be as provided by Sec. 125.12, Wis. Stats., as amended from time to time.
 - (2) With respect to licenses other than those described in Subsection (a) herein, the Village Board or its assignee shall notify the applicant in writing of the Village's intention not to renew the license and shall provide the applicant with an opportunity for hearing. The notice shall state the reasons for the intended action and shall establish a date, not less than three (3) days nor more than ten (10) days after the date

of the notice on which the applicant shall appear before the Village Board. If the applicant shall fail to appear before the Board on the date indicated on the notice, the Board shall deny the application for renewal. If the applicant appears before the Board on the date indicated in the notice and denies that the reasons for nonrenewal exist, the Village Board shall conduct a hearing with respect to the matter. At the hearing, both the Village and the applicant may produce witnesses, cross examine witnesses and be represented by counsel. The applicant shall, upon request, be provided a written transcript of the hearing at the applicant's expense. If the Village Board determines the applicant shall not be entitled to renewal pursuant to Subsection (a), the application for renewal shall be denied.

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

Sec. 7-13-2 Issuance of Licenses.

- (a) **Application.** Applications for licenses under this Title shall be made to the Village Administrator on a form furnished by the Village. Such application shall contain such information as may be required by the provisions of this Chapter or as may be otherwise required by the Village Board.
- (b) **Payment of License Fee.** License fees imposed under this Title shall accompany the license application. If a license is granted, the Village Administrator shall issue the applicant a receipt for his/her license fee.
- (c) **Refund of License Fee.** No fee paid shall be refunded unless the license is denied.
- (d) **Terms of Licenses.** All licenses issued hereunder shall expire on June 30, in the year of issuance unless issued for a shorter term, when they shall expire on midnight of the last effective day of the license, or unless otherwise provided by these Ordinances or State laws.
- (e) **Form of License.** All licenses issued hereunder shall show the date of issue, the activity licensed, and the term of the license, and shall be signed by the Village Administrator and be impressed with the Village Seal, if any.
- (f) **Record of Licenses.** The Village Administrator shall keep a record of all licenses issued.
- (g) **Display of Licenses.** All licenses hereunder shall be displayed upon the premises or vehicle for which issued, or if carried on the person shall be displayed to any officer of the Village upon request.

- (h) **Compliance With Ordinances Required.** It shall be a condition of holding a license under this Title that the Licensee comply with all ordinances of the Village. Failure to do so shall be cause for revocation of the license.
- (i) **Transfer of Licenses.** All licenses issued hereunder shall be personal to whom issued and shall not be transferred except with the consent of the Board.
- (j) **Consent to Inspection.** An applicant for a license under this Chapter thereby consents to the entry of police or authorized representatives of the Village upon licensed premises at all reasonable hours for the purposes of inspection and search, and consents to removal from the premises and introduction into evidence in prosecutions for violations of this Title all things found therein in violation of this Chapter or State law.