

## CHAPTER 15

### LICENSES AND PERMITS

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**15.01            SHOWS PROHIBITED UNLESS UPON LICENSE:**

No person or persons shall exhibit to public view for gain within this Village any animal, wax or other figures, paintings, feats, vaudeville, theatrical or moving picture exhibition, or operate any circus, shooting gallery, carousel, bowling alley or any other show, exhibition or operation without being first duly licensed so to do by the Village Board on such terms as it may prescribe.

**15.02            REGULATIONS OF BOARD OF HEALTH:**

The Board of Health of the Village is authorized and empowered to make reasonable and general rules for the sanitary conduct and maintenance of all places of business operating in the Village under a permit.

**15.03            REVOCATION OF LICENSE:**

The Village Board may, upon reasonable notice to the licensee by registered mail addressed to his last know address, revoke any license given pursuant to this chapter for cause, following a hearing before the Village Board, such cause to include, among other things, violation by the holder of such license, his agents or servants in the conduct of said business of any State law, Village ordinance or rule or regulation of the Village Board or Board of Health.

**15.04**      **ALCOHOL BEVERAGES** (Ord. 1583)

A.      **ADOPTION OF STATE STATUTES AND DEFINITIONS.**

- (1)      The provisions of Chapter 125 of the Wisconsin Statutes relating to the regulation of intoxicating liquor and fermented malt beverages are adopted as a portion of this section so far as applicable, except as otherwise lawfully provided by this section. A violation of any such provisions shall constitute a violation of this section.
- (2)      The definition of all words and phrases as provided in Wis. Stats. 125.02 are hereby incorporated into this section, so far as applicable.

B.      **LICENSES REQUIRED.**

**When Required.**      No person, except as provided by Wis. Stats. 125.06, may sell any intoxicating liquor or fermented malt beverage, or engage in any other activity for which Chapter 125 of the Wisconsin Statutes requires a license or other type of authorization, without holding a license, as provided in this section, nor without complying with all the provisions of this section and all other statutes, municipal code provisions and regulations of the State and Village applicable thereto.

C.      **CLASSES OF LICENSES.**

There shall be the following classes of licenses which, when issued by the Village Clerk under the authority of the Village Board and after payment of the fee herein specified, shall permit the holder to sell, deal or traffic intoxicating liquor or fermented malt beverages as provided in this section and as provided in Wis. Stats. 125.17, 125.25, 125.26, and 125.51. Except as otherwise provided in this section, the full license fee shall be charged for the whole or fraction of any year. All license years shall be deemed to commence as of July 1.

(1)      **Retail Class "A" Fermented Malt Beverage Licenses.** Class "A" licenses may be issued by the Village Board pursuant to the provisions of Wis. Stats. 125.25 and authorize retail sales of fermented malt beverages for consumption off the premises where sold and in original packages, containers or bottles. The license fee shall be \$100 per year.

(2)      **Retail Class "B" Fermented Malt Beverage Licenses.** Class "B" licenses may be issued by the Village Board pursuant to the provisions of Wis. Stats. 125.26 and authorize retail sales of fermented malt beverages to be consumed either on the premises where sold or off the premises. The fee for a Class "B" license shall be \$100 per year.

(3) **Temporary Class "B" Fermented Malt Beverage Licenses.** Temporary Class "B" licenses may be issued by the Village Board pursuant to the provisions of Wis. Stats. 125.26(6) to bona fide clubs, churches, lodges or societies that have been in existence for at least six (6) months before the date of application for special events. Licenses issued under this subsection authorize the sale of fermented malt beverages at a particular picnic or other similar gathering. The license fee shall be \$10 per permitted event.

(4) **Retail "Class A" Intoxicating Liquor Licenses.** "Class A" licenses may be issued by the Village Board pursuant to the provisions of Wis. Stats. 125.51 (2) and authorize the retail sale of intoxicating liquor for consumption off the premises where sold and in original packages and containers. The fee shall be \$500 per year.

(5) **Retail "Class B" Intoxicating Liquor Licenses.** "Class B" licenses may be issued by the Village Board pursuant to the provisions of Wis. Stats. 125.51 (3) and authorize the retail sale of intoxicating liquor for consumption on the premises where sold by the glass and not in the original package or container; and in addition, the retail sale of wine sold in the original package or container to be consumed off the premises. The fee shall be \$500 per year.

(6) **Retail "Class C" Wine Licenses.** "Class C" licenses may be issued by the Village Board pursuant to the provisions of Wis. Stats. 125.51(3m) and authorize the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold. The license fee shall be \$100 per year.

(7) **Temporary "Class B" Wine Licenses.** Notwithstanding Wis. Stats. 125.68(3), temporary "Class B" licenses may be issued by the Village Board pursuant to the provisions of Wis. Stats. 125.51(10) to bona fide clubs, churches, lodges or societies that have been in existence for at least six (6) months before the date of application authorizing the sale of wine containing not more than 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. The license fee shall be \$10.00.

(8) **Operators' Licenses.** Operators' licenses may be issued by the Village Board pursuant to the provisions of Wis. Stats. 125.17 for the purposes of compliance with Wis. Stats. 125.32(2) and 125.68(2). The fee shall be \$50.00 (ORD. 1788) and the license shall be valid for one year expiring on June 30. No operators license may be issued unless the applicant provides evidence of compliance with the beverage server training course or otherwise complies with the provisions of Wis. Stats. 125.17(6).

D. **LICENSE APPLICATIONS.**

(1) Applications for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on the form prescribed by law and shall be sworn to by the applicant and shall be filed with the Village Clerk for presentation to the Village Board.

(2) Prior to approval of a license application under this Chapter, the Village Clerk shall publish each application for a Class "A", Class "B", "Class A", "Class B" or "Class C" license except for Temporary Class "B" and Temporary "Class B" license applications, pursuant to the provisions of Wis. Stats. 124.04(3)(g).

(3) All license applications shall be referred to the Chief of Police for investigation to assure compliance of applicants with the provisions of Wis. Stats. 124.04(5).

(4) Any person may inspect applications for licenses to sell alcohol beverages.

E. **LICENSE RESTRICTIONS.**

(1) **Statutory Requirements.** Licenses may be issued only to persons eligible therefor under Wis. Stats. 125.04(5).

(2) **Health and Sanitation Requirements.** No Class "B", "Class B" or "Class C" license may be issued for any premises which does not conform to the sanitary, safety and health requirements of the State Department of Commerce pertaining to buildings and plumbing, to the rules and regulations of the State Department of Health and Family Services applicable to restaurants, and to all such ordinances and regulations of the Village of Whitefish Bay.

(3) **License Quotas.** Not more than eight (8) Class "B" licenses nor more than eight (8) "Class B" licenses may be issued. Not more than six (6) Class "A" licenses nor more than six (6) "Class A" licenses may be issued. (Ord. 1588)

(4) **Corporations and Limited Liability Companies.** No license may be granted to any corporation or limited liability company which does not meet the requirements set forth in Wis. Stats. 125.04(5) and 125.04(6). No corporation or limited liability company may be issued a license unless said corporation or limited liability company first appoints an agent. In addition to the qualifications under Wis. Stats. 125.04(5) and 125.04(6), the agent must, with respect to character, record and reputation, be satisfactory to the Village Board. The corporation or limited liability company shall vest in the agent full authority and control over the premises, including all responsibility for its operation.

(5) **Age Requirements.** No license may be granted to any person who has not attained the legal drinking age, as defined by Wis. Stats. 125.02(8m).

Section 15.04 (e) (6)

(6) **Display of License.** Every license issued under this section shall be posted and at all times displayed as provided in Wis. Stats. 125.04(10).

- (7) **Presence of Licensee Agent or Operator.** Pursuant to Wis. Stats. 125.32 (2) and 125.68 (2), there shall be on the premises at all times the premises are open for business the licensee, the agent named in the license if the licensee is a corporation or limited liability company, or some person who has an operators' license, who shall be responsible for the operation of the business.
- (8) **Operator/Bartender Licenses.** Operator/Bartender licenses may be issued by the Village Board pursuant to the provisions of Wisc. Stats. 125.17 for the purposes of compliance with Wisc. Stats. 125.32(2) and 125.68(2). The fee shall be \$40.00 and the license shall be valid for one year expiring on June 30. No operator's license may be issued unless the applicant provides evidence of compliance with the beverage server training course or otherwise complies with the provisions of Wisc. Stats. 125.16(6).

**15.05 SODA WATER BEVERAGES** (Ord. 1583) REPEALED (Ord. 1787)

**15.07      TRANSIENT MERCHANTS AND SOLICITORS: (Ord. 1720)**

(1)      DEFINITIONS

(a)      The words "Transient Merchant" as hereinafter used shall include any peddler, canvasser, Solicitor whether principal, agent or employee, who engages in, does or transacts any temporary or transient business in this Village, either in one location or by moving his place of business from place to place in the Village selling goods, wares, services or merchandise or solicits for such trade, and whether or not for the purpose of carrying on such business, such individual hires, leases, occupies, or uses a building, structure, vacant lot, railroad car or other vehicle for the exhibition or sale of such goods, wares and merchandise.

(b)      The word "Solicitor" as hereinafter used shall include those who solicit money or items for donation (other than panhandling for one's personal sustenance) in person by being present at a business or residence of the person from whom the money or donations is requested.

(2)      WHO NOT INCLUDED

(a)      This section shall not be held to include the acts of persons selling services, goods or materials at wholesale to dealers in such articles, nor to vendors of dairy products, fruit juices, bakery goods or groceries to any regular customers on established routes, nor the acts of the local area merchants or their employees in delivering such goods in the regular course of business, nor shall this section be held to include or apply to any farmer who shall vend, sell or dispose of, or offer to sell, vend or dispose of the products of the farm or garden occupied and cultivated by him or her, nor to governmental agents in the performance of their official duties.

(b)      This section shall not be held to prohibit any sale required by Statute or by order of any court, or to prevent any person conducting a bona fide auction sale pursuant to law.

(c)      This section shall not be held to include the acts of persons solely engaged in acts of political or religious speech or the free exercise of religion to the extent such acts are protected under the Wisconsin and United States Constitutions.

(d)      This section, including, but not limited to its permitting and registration provisions, does not apply to residents under the age of twenty-one conducting door-to-door sales or solicitations on behalf of a charitable or non-profit educational organization, including, but not limited to the Boy Scouts of America, Girl Scouts of America, public and private schools, UNICEF and youth athletic leagues and associations.

(3) PERMITS AND REGISTRATION REQUIRED

(a) Permits

It shall be unlawful for any transient merchant to vend, sell or dispose of, or to offer to vend, sell or dispose of goods, wares, merchandise, produce or services or any other thing at any place whatsoever within the Village of Whitefish Bay without first obtaining a permit as set forth herein.

(b) Registration

It shall be unlawful for any Solicitor to solicit money or items for donation in person by being present at a business or residence without first registering as set forth herein.

(4) APPLICATION AND PERMIT

(a) Application for Permit

Transient Merchants and solicitors shall obtain a permit application/registration form from the Village Clerk-Treasurer. The Transient Merchant or Solicitor shall fill out this application/registration form, stating the nature of and the place where business is to be carried on, the length of time for which a permit or registration is desired, a general description of the things intended to be solicited, sold, disposed of or contracted for, the name, date of birth and permanent address of all the persons to be covered by such permit, the name and address of the applicant/registrant, and the place or places of residence of the applicant/registrant for the two years previous. No permit shall be granted until all of the provisions of subsection (4) (b) of this section, as well as any country, state, or federal laws or regulations have been complied with. Whenever the business of the applicant shall require the use of weighing or measuring devices, a certificate shall accompany the application from the sealer of weights and measures stating that said devices have been examined and approved.

1. Application and Registration

At the time of filing application or registration, a permit fee of \$150.00 and an investigation fee of \$20.00 for each person to be covered by permit or otherwise registered, shall be paid to the Village Clerk-Treasurer to cover the cost of investigation of the facts stated in the application or registration. The application or registrations shall be sworn to by the applicant and filed with the Chief of Police and shall contain such additional information as the Chief shall require for the effective enforcement of this section and the safeguarding of the residents of the Village from fraud, misconduct or abuse. Religious, charitable, political, patriotic or philanthropic agencies or their agents shall not be required to submit an application or pay an application or registration fee if they are engaged purely in activities which are exempt from this Section. (Ord. 1768)

Section 15.07 (4) (b)

(b) Investigation

Upon receipt of each such application or registration, the Chief of Police shall institute such investigation of applicant's business and moral character as he or she deems necessary for the protection of the public good, and shall approve or disapprove applications within seventy-two (72) hours after such application was filed, and shall issue or deny a permit in accordance with his or her findings after presentation by the applicant of a receipt from the Village Clerk-Treasurer showing payment of the required fee.

(c) Bond

If the Chief of Police determines from his or her investigation of said application that the interests of the Village or of inhabitants of the Village require protection against possible misconduct of the licensee or that the applicant is otherwise qualified but due to causes beyond his or her control is unable to supply all of the information required by subsection (3), he may require the applicant to file with the Village Clerk-Treasurer a bond in an amount up to \$25,000 with surety running with the Village, conditioned that the permittee willfully comply with the ordinances of the Village and laws of the State relating to peddlers, canvassers or transient merchants and guaranteeing to any citizen of the Village of Whitefish Bay doing business with the permittee that the property purchased will be delivered according to the representations of the applicant, provided that action to recover on any such bond shall be commenced within six (6) months after the expiration of the license of the principal.

(d) Issuance

All permits shall be numbered in the order in which they are issued and shall state clearly the place where the business may be carried on, the purpose of the solicitations, the kind of goods, wares, merchandise or services to be sold, disposed of or contracted for, the dates of issuance and expiration of permit, the fee paid and the name and address of the licensee and all employees covered by said permit, and the date of revocation of permit. Such permit shall automatically expire on January 1 following the date of issuance of such permit. No permit shall be granted to a person under eighteen (18) years of age and no applicant to whom a license has been refused or who has had a permit which has been revoked shall make further application until a period of at least six months shall have elapsed since the last previous rejection or revocation, unless the person can show that the reason for such rejection or revocation no longer exists. Every Transient Merchant or Solicitor, while exercising his permit or registration, shall post the permit or registration information in a conspicuous place on the premises or person and shall exhibit the same upon demand of any officer, or a customer or prospective vendee. A permit or registration shall not be assignable and any holder of such permit or registration who allows it to be used by any other person shall be guilty of a violation of this section. Whenever a permit shall be lost or destroyed, a duplicate in lieu thereof under the original application may be issued by the Clerk-Treasurer upon filing with him or her by the permit holder of an affidavit setting forth the circumstances of the loss and what, if any, search has been made for its recovery, and upon the payment of a fee of \$10.00.

Section 15.07 (5)

(5) MUTILATION OF PERMIT

On the expiration of the permit, the holder shall surrender the same to the

Chief of Police. It shall be unlawful for any person to alter or change in any manner any permit issued under the provisions of this section, and such alteration or the failure of the holder of same to display the permit in a conspicuous place on the premises or person or to exhibit the same upon demand of any officer or customer or prospective vendee shall be cause for revocation of such permit.

(6) REVOCAION

The chief of Police, Village Manager or the Village Board may at any time for a violation of this or any other ordinance or any law, revoke any permit issued under these provisions. When a permit shall be revoked, no refund of any unearned portion of the permit fee shall be made. Notice of such revocation and the reason or reasons therefor in writing shall be immediately served personally upon the person named in the application or by mailing the same to the permit holder at the named premises, and by filing a copy of such notice with the Village Clerk-Treasurer. Appeal from revocation shall be made to the Village Board within thirty (30) days of date of revocation.

(7) PREPAYMENTS

All orders taken by a permit holder under this section who accepts or receives payment or deposit of money in advance of final delivery shall be in writing in duplicate, stating the terms thereof and the amount paid in advance, and one copy shall be given to the purchaser at the time the deposit of money is paid.

(8) HEALTH OFFICER'S CERTIFICATE

No individual shall carry on any business under this section involving the handling or sale of foodstuffs, without first securing from the Health Officer a certificate stating that he or she is apparently free from any contagious or infectious disease and agreeing in writing to submit to a further physical examination upon the request of the Health Officer.

(9) GENERAL PROHIBITIONS: TRANSIENT MERCHANTS, SOLICITORS AND THOSE EXEMPT FROM THIS SECTION

No person shall do any of the following upon visiting any business or residence in the Village:

(a) Falsely or fraudulently misrepresent the quantity, character or quality of any article or service offered for sale, or offer for sale any unwholesome or tainted food or foodstuffs, nor shall intentionally misrepresent to any prospective customer the purpose of his or her visit, nor the name of the business of his or her principal, if any, nor the source of supply of the goods, wares, merchandise or services which he or she sells, or offers for sale nor the disposition of the proceeds or profits of his or her sales.

Section 15.07 (9)(b)

(b) Keep any facilities or premises in an unclean or unsanitary condition or foodstuffs offered for sale uncovered and or unprotected from pathogens, dirt, dust and insects.

(c) **Engage in door-to-door selling of goods, wares, merchandise,**

**services, or soliciting other than between the hours of 9:00 A.M. to the earlier of either 7:00 P.M. or one hour after sunset.**

(d) Call on any dwelling or other place where a sign is displayed bearing the words "No Peddlers", "No Solicitors", or words of a similar meaning.

(e) Call at the rear door of any dwelling place; or remain on premises after being asked to leave by the owner, occupant, or any other person having authority over such premises.

(f) Use any permit provided by the Village after the expiration or revocation of the permit.

(g) Knowingly provide false information in the submission of any application or registration under this Section.

**15.08**      **FIREWORKS DISPLAYS:** (Ord. 1411)

(a)      Permission may be obtained for fireworks displays upon application and issuance of a permit by the Village. Written notice shall be given by the Village to all property owners within five hundred (500) feet of the site of the display of either a Village Committee or Village Board meeting at which the issuance of the permit is considered. Approval may be granted by the Village Board if it is fully satisfied as to all aspects of the display, including safety, appropriateness and the effect on other residents and the community. If so approved by the Village Board, the permit is to be issued by the Village Manager only upon his full and complete satisfaction as to all safety factors. (Ord. 1596)

(b)      Upon the issuance of a permit for a fireworks display under the provisions of this section, the provisions of Section 8.01 (3) (a) and 9.02 (4) (f) shall be superseded but only to the extent of the activities expressly provided for in said permit.

(c)      No fireworks display permit shall be issued nor shall the Village enter into any contract with a fireworks display company unless the Village is assured that the contract with the fireworks display company expressly binds the fireworks display company to cause its employees to search the grounds of the fireworks display for any combustible material or other dangerous material left by the fireworks display company, and to remove all of said combustible and dangerous material, said search and removal to be completed by one (1) hour after sunrise the day following the display.

)d)      Fees: The applicant for the fireworks display permit shall pay a permit fee within five (5) working days of the approval by the Village Manager. The permit fee shall be the estimated costs of the event to the Village, including salary and benefits for police officers and DPW workers, as determined by the Village Manager plus a twenty-five dollar (\$25.00) administrative fee. The permit fee may be waived by the Village Manager for events which are conducted by charitable nonprofit organizations or are of a civic nature. (Ord. 1596)

**15.09**      **THEATERS AND MOVIES:**

(l)      **LICENSES:**

No person, either as owner, lessee, manager, officer or agent, shall keep, maintain, conduct or operate any theater or moving picture show house in the Village of Whitefish Bay without first obtaining a license therefor in the manner hereinafter provided.

(a) Definitions:

The term "theater or moving picture show house" as used in this section is defined as any edifice, hall, building or part of building regularly or generally used or wholly devoted to the purposes of dramatic, operatic, vaudeville or other exhibition plays or performances for admission, to which an entrance fee is paid, charged, or received, or regularly or generally used or wholly devoted to the purpose of exhibiting moving pictures of any kind for admission to which an entrance fee is paid, charged or received, and shall exclude churches, schools, and other halls used only occasionally for moving picture exhibitions, illustrated or other lectures, concerts or amateur theatricals or exhibitions.

(b) Applications-Requirements:

Applications for said licenses stating the location and the seating capacity of the premises shall be made to the Village Board, which may grant any such license, as in its judgment will promote the good order and welfare of the Village, but no such license shall be granted for any edifice which does not conform in all respects to the laws of this state and the ordinances of the Village and the standards of the National Fire Protection Association applying to such edifice (copies of which said standards are by reference made a part hereof and which are on file in the office of the Village Clerk-Treasurer), and unless the same shall be safe and proper for the purposes for which it is to be used.

(c) Revocation of License:

The Village Board shall have power and authority to revoke or annul for cause, any license granted according to the provisions of this section, whenever in its judgment, the good order and welfare of the Village will be promoted thereby, and whenever the licensed building does not conform in all respects to the laws of this State, standards of the National Fire Protection Association and the ordinances of the Village, applying to such edifice, and whenever the same shall be unsafe and improper for the purposes for which it is used.

(d) License Fee:

The schedule of annual license fees under this section is fixed as follows:

- If structure with seating capacity of less than 501 persons .....\$200
- If structure with seating capacity from 501 to 800 persons, inclusive .....\$300
- If structure with seating capacity of more than 800 persons (Ord. 1277) .....\$400

License fee to run from January 1 to December 31, both inclusive and pro rata for any part of such year.

**15.10 PASSENGER AUTOMOBILE PARKING LOTS:**

(l) LICENSES:

No person shall maintain or operate a passenger automobile parking lot pursuant to Section 16.095 of this code without first obtaining a license therefor in the manner hereinafter provided.

(a) Application:

Application for said license shall be made in writing to the Village Clerk-Treasurer, setting forth the location of the proposed automobile parking lot, and shall be accompanied by the license fee. Said application shall state that the conditions set out in this Section and in Section 16.095 of the Zoning Code have been and will be fully complied with. The application shall designate the name, address and telephone number of the person in charge of the operation and maintenance of said passenger automobile parking lot and responsible for compliance with the duties imposed upon the licensee by this Section. (Ord. 1277)

(b) Granting of License:

The Village Clerk-Treasurer, upon receiving an application required by this section, shall immediately notify the Village Manager thereof. The Village Manager shall inspect or cause to be inspected the proposed lot to determine whether it complies with the requirements and regulations applicable thereto and shall file his report thereon with the Village Clerk-Treasurer, stating that said lot complies with all requirements and regulations, or that certain requirements and regulations have not been complied with. Upon receiving said report from the Village Manager, the Village Clerk-Treasurer shall,

(1) issue a license to applicant which shall remain in force until the 31st day of December next following the date of issuance thereof unless sooner revoked, or

(2) advise applicant that said license has been denied because certain regulations and requirements have not been complied with, and return to applicant the fee submitted with the application.

(c) Term of License:

Passenger automobile parking lots shall be licensed annually under this ordinance from January 1 to December 31 of each year.

(d) Renewal of License:

A renewal license will be issued each year by the Village Clerk-Treasurer to the original applicant upon payment of the annual license fee provided herein.

Section 15.10 (1)(e)

(e) License Fee:

The license fee for passenger automobile parking lots under this section shall be \$55.00 (Ord. 1419) per year or any fraction thereof.

(2) DUTIES OF LICENSEE:

It shall be the duty of every licensee of a passenger automobile parking lot licensed hereunder to:

(a) Maintain such parking lot in a clean and orderly manner and free of debris.

(b) Prevent unnecessary blowing of horns, racing of engines and flashing of lights, and any other unnecessary and unreasonable noises and activities.

(c) Provide illumination for such parking lot, from one-half hour after sunset until one-half hour before sunrise, if such illumination is required by the provisions of Section 16.095 (l) (b) 3 of this code.

(d) Report to the Chief of Police within five (5) days, on forms provided for such purpose, the name of the owner of each passenger automobile allowed to park overnight on such parking lot, his place of residence, and the make and license number of his automobile.

(e) Require all passenger automobiles parked overnight to be locked.

(3) ENFORCEMENT:

It shall be the duty of the chief of Police to enforce the provisions of this section. Whenever it shall appear to him that such duties of the licensee are not being performed, he shall notify the Village manager of such fact, prescribing the violations thereof.

(4) REVOCAION OF LICENSE:

When the Village Manager shall be informed by the Chief of Police of the violation by a licensee of this section, he shall promptly inform such licensee by registered mail, return receipt requested, of the alleged violation and that his license will be revoked if such violation does not cease within five (5) days after receipt of such notice. If the licensee fails to comply with said notice, the Village Manager may thereupon revoke his license, notice of which revocation shall be sent to the licensee by registered mail, return receipt requested, and it shall thereafter be unlawful for said licensee to permit automobiles to be parked overnight on such parking lot.

**15.11      REGULATION OF DOGS.** (Ord. 1415)

(A)      REGULATION OF DANGEROUS AND VICIOUS DOGS:

(1)      Definition of dangerous dog.

Any dog shall be categorized as a dangerous dog if it fits into any of the following categories:

- (a)      Any dog which, when unprovoked, bites a person or a domestic pet or animal, whether on public or private property.
- (b)      Any uncontrolled dog which chases or approaches a person without provocation in a manner which threatens the safety of humans or domestic pets or animals.
- (c)      Any dog with a demonstrated propensity, tendency or disposition to attack, to cause injury to, or to otherwise threaten the safety of humans or domestic pets or animals. This category shall include a security dog which has been trained to attack.
- (d)      Any dog not in strict conformity with the rabies control program of the Village as established by this Village Code.

(2)      Definition of Vicious Dog.

Any dog shall be categorized as a vicious dog if it fits into any of the following categories:

- (a)      Any dog that according to the records of a health department, police department, or humane society or according to any other records available to the Police Department has directly inflicted any physical injury that resulted in broken bones or lacerations requiring sutures on a human being without provocation on public or private property.
- (b)      Any dog that has killed a domestic pet or animal without provocation while off its owner's property.
- (c)      Any dog, having been previously found to be dangerous and its owner having been given notice of the dangerous action, upon the dog biting, attacking or endangering the safety of humans, domestic pets or animals.

(3)      Exceptions:

A dog shall not be categorized as dangerous or vicious if it bites, attacks or menaces any person, domestic pet or animal in order to:

- (a) Defend its owner, caretaker or another person from an attack by a person or animal.
- (b) Protect itself, its young or another animal.
- (c) Defend itself against any person or animal which has tormented, assaulted or abused it.
- (d) Defends its owner's or caretaker's property against trespassers.

(4) Determination of vicious dog.

(a) Upon investigation, if an Animal Officer, Law Enforcement Officer, or Humane Officer determines that a dog fits into any of the categories of (1) or (2), the Officer may declare the dog to be a dangerous or vicious dog as appropriate. The Officer shall immediately inform the owner or caretaker in writing by personal service or by regular mail of said determination. If an owner or caretaker contests the designation of the dog as dangerous or vicious, the Chief of Police or the Chief Designee shall convene a hearing. At the hearing, the owner or caretaker shall have the opportunity to present evidence as to why the dog should not be declared dangerous or vicious. The hearing shall be held promptly within no less than five (5) days and no more than ten (10) days after service of notice upon the owner or caretaker of the dog.

(b) Pending the outcome of the hearing, the dog must be securely confined in a humane manner either on the premises of the owner or caretaker or with a licensed veterinarian.

(c) After the hearing, the owner or caretaker shall be notified in writing of the determination. If a determination is made that the dog is dangerous or vicious, the owner or caretaker shall comply with this Section in accordance with a time schedule established by the Chief of Police, but in no case more than thirty (30) days after the date of determination. If the owner or caretaker further contests the determination, he or she may appeal the decision within five (5) days of receiving the decision to the Board of Appeals. If the Board of Appeals affirms the determination that the dog is dangerous or vicious, the owner or caretaker shall comply in accordance with a time schedule established by the Board of Appeals. In the absence of a time schedule being established by the Board of Appeals, the owner or caretaker shall comply in accordance with the time schedule previously established by the Chief of Police. (Ord. 1785)

(5) Regulation of Dangerous and Vicious Dogs. (Ord. 1785)

owner or caretaker of any dog determined to be dangerous pursuant to the provisions of this Section shall be required to maintain actual control of the dog by indoor confinement, secure fencing or enclosure, tether which does not extend beyond property lines or into the right-of-way, or a leash securely fastened to the dog and held and managed by an owner or caretaker of sufficient strength and ability to control the dog.

The owner or caretaker of any dog determined to be vicious pursuant to the provisions of this Section shall comply with the following regulations:

Section 15.11 (5) (a)

(a) Leash and muzzle. No person owning, harboring or having care of a vicious dog may permit such dog to go outside of its kennel or pen unless the dog is securely leashed on a leash, no longer than 4 feet in length.

No person may permit a vicious dog to be kept on a chain, rope, leash or similar restraining device outside its kennel or pen unless a person competent to govern the animal is in physical control of the restraining device and remains in position to control the dog at all times. The dog may not be leashed to inanimate objects such as tress, posts and buildings.

A vicious dog outside the dog's kennel shall be muzzled in a humane way by a muzzling device sufficient to prevent the dog from biting persons or other animals. A vicious dog shall not be required to be muzzled when either shown in a sanctioned American Kennel Club Show or upon prior written approval by the Director of Public Safety or his designee.

(b) Confinement.

All vicious dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel on the premises of the owner or caretaker, except when leashed and muzzled. When constructed in an open yard, the pen or kennel must be childproof from the outside and dog proof from the inside. A strong metal double fence with adequate space between fences (at least 2 feet) must be provided so that a child cannot reach into the dog enclosure. The pen, kennel or structure shall have secure sides and a secure top attached to all sides. A structure used to confine a vicious dog shall be locked with a key or combination lock when the dog is within the structure. The structure shall have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than 2 feet. All structures erected to house vicious dogs shall comply with all zoning and building regulations of the Village. All structures shall be adequately lighted and ventilated and kept in a clean and sanitary condition.

No vicious dog may be kept on a porch, patio or in any part of a house or structure on the premises of the owner or caretaker that would allow the dog to exit the building on its own volition, except through a door leading directly to a pen or kennel meeting all of the requirements of this subsection. No vicious dog may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.

(c) Liability Insurance or Surety Bond.

The owner or caretaker of a vicious dog shall present to the Health Department or Police Department proof that the owner or caretaker has procured liability insurance in the amount of at least \$100,000, insuring the owner for any personal injuries inflicted by the vicious dog. In lieu of the liability insurance requirement, the owner or caretaker of a vicious dog may present evidence of a surety bond in the sum of at least \$100,000, payable to any person injured by a vicious dog.

(d) Signs.

The owner or caretaker of a vicious dog shall display, in prominent places on his or her premises near all entrances to the premises, signs in letters of no less than 2 inches high warning that there is a vicious dog on the property. A similar sign is required to be posted on the kennel or pen of the dog.

(e) Notification.

The owner or caretaker shall immediately notify the police department if a vicious dog is on the loose, is unconfined, has attacked another animal, has attacked a human being, has died, has been sold or has been given away. If the vicious dog has been sold or given away, the owner or caretaker shall also provide the police department with the name, address and telephone number of the new owner of the vicious dog. If the vicious dog is sold or given away to a person residing outside the Village, the owner or caretaker shall present evidence to the police department showing that he or she has notified the police department or other law enforcement agency of the dog's new residence.

(6) Removal.

If the owner or caretaker of a dog that has been designated vicious is unwilling or unable to comply with the regulations for keeping the dog in accordance with this section, he or she shall remove the dog from the Village, with the dog only being allowed to be returned if there is compliance with all regulations of this section.

(7) Inspection.

The health department or police department will make whatever inquiry is deemed necessary to insure compliance with this section.

(8) Exemption.

This section does not apply to dogs used while in the line of duty by the police department, any other law enforcement agency of unit of the United State Military Service.

(B) DOG CONTROL REGULATIONS.

(1) Number of Dogs Limited.

No person or persons living together as a single housekeeping unit shall own or keep more than 2 dogs. However, in addition, when puppies have been born or sired by a dog in residence with the owner or caretaker, such puppies may be kept up to an age of 5 months.

(2) Dog Licenses and Collar Tags.

Every dog shall be licensed pursuant to the provisions of Wis. Stats. 174.05. All dogs, their owners and caretakers, shall be subject to the provisions of Wis. Stats. 174.07 in regard to dog licenses and collar tags, including, but not limited to, the requirement that the owners shall securely attach the tag to a collar and a collar with the tag attached shall be kept on the dog for which the license is issued at all times except for the circumstances set forth in that said statutory section. Humane officers, licensed by the State of Wisconsin, are hereby authorized to issue Village citations to Village residents for violation of this section.

(3) Registration of Security Dogs.

Any dog which is trained as a security dog and which is hired by an owner of premises within the Village for the purpose of guarding or securing said property shall be registered with the police department. An annual registration fee of \$11.00 shall be paid, said fee to be in addition to the dog license fee. The owner of the dog and the owner of the premises shall be jointly responsible for said registration. In addition to the registration, the owner of the dog or the owner of the premises shall inform the police department as to the specific day or days when the dog will be present on the premises. Security dogs shall also be subject to all other provisions of this section 15.11.

(4) Dogs Trained for Fighting Prohibited.

No dog shall be kept within the Village which has been trained, owned or harbored for the purpose of dog fighting.

(5) Dog Scoop.

Any person in control of a dog who takes the dog off of the premises of the dog's owner or caretaker shall have a dog scoop, bag or container in hand or on their person of sufficient size to immediately remove fecal matter deposits from the public ways and from the property of any other person deposited without the other person's knowledge and consent.

No person shall place said fecal matter wrapped or unwrapped in a storm catch basin of the Village, nor wrapped or unwrapped in private trash receptacles of persons other than the person collecting the fecal deposit, the dog's owner or caretaker, nor unwrapped in a public receptacle.

(6) Killing of Dogs Prohibited.

No dog may be killed within the village except as provided by Wis. Stats. 174.01 and 174.02.

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(7) Dog Running at Large.

No dog shall run at large and no owner or caretaker shall keep or possess

a dog which runs at large. A dog is considered running at large under the following circumstances:

(a) A dog is considered to be running at large if it is off the premises of its owner or caretaker and not controlled by the owner, caretaker or some other person by leash not longer than 6 feet, and that person is of sufficient size and physical stature and condition to control the dog by continuous use of the leash.

(b) A dog is considered to be running at large under any condition if it is a public park, on school grounds or any other public areas of this Village. Right-of-way areas for street purposes are not "public areas" for the purpose of this Subsection. (ord. 1476)

(c) No dog shall be kept untagged. A dog is considered to be untagged if a valid license is not attached to a secure and well maintained collar which is properly affixed and worn by the dog whenever the dog is outdoors, unless the dog is securely confined in a secure fenced area.

(d) The owner or caretaker of a dog which is found to be running at large or found to be untagged may be issued a citation and subject to the penalty as provided; and further the owner and caretaker of a dog which is found running at large or found to be untagged is responsible for the cost of impoundment, boarding and other expenses related to the Village dog control regulations. Reasonable charges for costs, if unpaid within 30 days of the mailing of an appropriate invoice are to be added to the yearly property tax bill.

(e) The provisions of this subsection (7) relate to all dogs. Additional requirements and restrictions relate to vicious dogs, as set forth in subsection (A) of this section.

(8) Barking Dogs.

No person or caretaker shall own or possess a dog which customarily, frequently, or habitually barks or howls to the annoyance of any person or persons.

(C) RABIES CONTROL PROGRAM.

(1) Quarantine.

An officer of the Police Department, Health Department or the Humane Society shall order a dog quarantined if the officer has reason to believe that the dog bit

Section 15.11 (C) (1)

a person, is infected with rabies or has been in contact with a rabid animal. For the purposes of this subsection, a bite shall be defined as any penetration of the top layer of skin by teeth, or scratches, abrasions, open wounds, or mucous membranes contaminated with the saliva of the dog.

(2) Quarantine Period and Examination.

If a dog is quarantined because there is reason to believe that the dog bit a person, the dog shall be kept under strict isolation under the supervision of a veterinarian for at least 10 days after the incident occurred. The supervision of a veterinarian shall include an examination of the dog on the first day of isolation, on the last day of isolation and on one intervening day. Dogs that have been exposed to a rabid or suspect animal that cannot be tested by the SHL anti-body assay will be required to be revaccinated and restrained by leash or confinement for 60-90 days.

(3) End of Quarantine Period.

If the observation period is not extended and if the veterinarian certifies that the dog has not exhibited any signs of rabies and said letter is filed with the Police Department, the animal may be released from quarantine.

(4) If Rabies Confirmed.

If the veterinarian determines that the dog exhibits symptoms of rabies during the observation, the dog shall be destroyed in a humane manner. If the dog is suspected to have bitten a person, the veterinarian shall notify the person or person's physician.

(5) Any owner or caretaker of a dog or any other person who knows that a dog has bitten a person shall report such fact to the Police Department.

(6) Vaccination.

Every owner or caretaker of a dog, in residence in the Village either permanently or temporarily, over 5 months of age must be vaccinated for rabies pursuant to the provisions of Wis. Stats. 95.21. The vaccination tag shall be attached to a collar and the collar with the tag attached shall be kept on the dog at all times except those situations specifically exempted pursuant to Wis. Stats. 95.21 (2) (f).

(7) Wisconsin Statutory Provisions.

All provisions of Wis. Stats. 95.21, the rabies control program, are hereby adopted by reference and made a portion of these Code provisions, and all owners and caretakers of dogs shall comply with all said provisions, whether or not specifically enumerated in this Code section.

**15.115**      **CATS.**

(1)      NUMBER OF CATS LIMITED.

No person or persons, living, lodging, cooking or eating together as a single housekeeping unit, shall own or keep more than two (2) cats over the age of two (2) months within any building used wholly or partly for residence purposes.

(2)      CATS INFECTED WITH HYDROPHOBIA.

(a)      Any Police officer or any Health officer of the Village may kill or impound any cat which he believes, from the appearance or conduct of such cat, to be infected with the disease known as hydrophobia or rabies.

(b)      Any person who shall suspect that any cat is infected with hydrophobia or rabies shall report his or her suspicion to the Police or Health authorities, describing the cat and giving the name of the owner if known; any such cat shall, upon demand of any Police officer or Health officer of the Village, be delivered to such officer; if upon examination by the health authorities, the cat shall prove in fact to be infected with said disease, the cat may be killed by any such officer.

(c)      No person shall knowingly harbor or keep any cat infected with hydrophobia or rabies or any cat known to have been bitten by a cat known to have been infected with hydrophobia or rabies, or shall fail to report to the Police or Health authorities of the Village the existence of a cat which he knows to be infected with hydrophobia or rabies.

(3)      CAT WHICH BITES OR SCRATCHES PERSONS.

(a)      Every owner or keeper of a cat and every person who knows that a cat has bitten or scratched any person shall immediately report such fact to a Police officer or the Health officer of the Village.

(b)      Such cat owner or keeper shall immediately confine said cat within an adequate enclosure for a period of at least fourteen (14) days thereafter and shall not release such cat except with the written approval of the Health officer.

(c)      Any such cat shall be surrendered to the Police or Health officer upon demand.

(d)      In addition to other penalties provided for a violation of this section, any owner or keeper of a cat quarantined pursuant to this section who permits or is responsible for a violation of said quarantine shall, upon conviction thereof, forfeit not less than \$50.00 nor more than \$100.00 together with the costs of prosecution, and in default of the payment of such forfeiture and the costs of prosecution shall be imprisoned in the County Jail or House of Correction of Milwaukee County until such forfeiture and costs are paid, but not exceeding 90 days.

(4) CATS AT LARGE.

No cat shall run at large, and any person may seize or impound any such cat found at large. A cat shall be deemed to be "at large" when it is on any property other than the premises of the owner of the cat.

(5) PAYMENT OF COST OF IMPOUNDING CATS.

The possession of any cat so impounded or seized may be obtained by paying to the Clerk-Treasurer of the Village the sum of \$3.00 plus \$4.00 for each day or fraction thereof during which said cat has been impounded. After any cat has been so impounded for a period of seven (7) days, it shall be destroyed under the direction of the Village Manager or other officer performing similar functions. (Ord. 1188)

(6) LICENSING OF CATS.

Every cat shall be licensed pursuant to the provisions of Wis. Stats. 59.877 and Milwaukee County Ordinance Chapter 26. The fact that a cat is without a proper license tag attached to its collar shall be presumptive evidence that it is unlicensed. Humane Officers, licensed by the State of Wisconsin, are hereby authorized to issue Village citations to Village residents for violations of this section. (Ord. 1198)

**15.12 - LARGE WASTE RECEPTACLE PERMIT (Ord.1762)**

No person or business leasing to or from another, emptying, transporting or removing Large Waste Receptacles (“Receptacles”) are to place or allow for placement of Receptacles in any public right-of-way (street, alley, highway, sidewalk, or any other public way), within the Village without first obtaining a permit from the Village.

(1) Definition. Large Waste Receptacle – A container larger than ninety-six (96) gallons in volume placed outdoors and designed to receive, transport, or dump waste including but not limited to household, construction, demolition debris and landscaping waste.

(2) Application – Applications for Large Waste Receptacle permits shall be obtained from the Village. Each owner of such Receptacle, or of the property served, and each person engaged in the business of leasing, emptying, transporting, or removing said Receptacles as well as the owner of the property served shall be jointly and severally responsible to fill out a separate application for each Receptacle and said permit shall be valid for the period of time specified thereon not to exceed 30 days. Written extensions for an additional 30 days may be granted, for good cause shown, by the Village Manager.

(3) Fees – The permit fee for each Receptacle placed within the Village are as follows:

- (a) Regular Permit – Allowed for 30 Days \$75.00
- (b) First Extension – Allowed for another 30 Days \$150.00
- (c) Final Extension – Allowed for another 30 Days \$225.00

(4) Placement – The applicant will be responsible for the following with regard to placement:

- (a) Barricades – The applicant will provide for the placement of two lit barricades on either end for Receptacles placed in the street or alley.
- (b) Location and Maintenance – It shall be the responsibility of both the entity that owns the Receptacle and the applicant to ensure safe and legal placement and maintenance of the Receptacle, in accordance with this section.
- (c) General Prohibitions on Placement – The location of the Receptacles shall not:

- (i) Block any building’s means of ingress or egress.

(ii) Block any fire lanes, handicap spaces, hydrant, or pedestrian walkways.

(iii) Be within 50' of any intersection.

(iv) Block any bus stop.

(v) Obstruct a driver's view of traffic signs or signals.

(d) Receptacles may not be placed on or nearby to service any single property for greater than ninety (90) days in any twelve (12) month period).

(e) The Building Inspector, Public works Director, Police Chief or their designees may deny a permit if he/she determines that the proposed location of the Receptacle in a street or public right of way restricts traffic conditions or public safety response.

(5) Use – Upon approval of the application, payment of the permit fee, and the filing or completion of all additional requirements, the following requirements shall be observed and enforced throughout the duration of the Receptacle's use.

(a) All Receptacles shall exhibit a clear and legible demarcation of owner of the receptacle, contact information, address and a contact phone number.

(b) All Receptacles located on private property do not require a permit but are still subjected to the conditions established in Section 15.12(4) and 15.12(5).

(c) All project sites shall be free of all loose debris such as cans, metal, plastic, paper, scrap lumber, drywall, demolition debris, and other materials commonly found on construction-related sites.

(d) All Receptacles shall be delivered or emptied in a timely fashion so as to prevent the overflow of debris or litter, and only between the hours of seven (7) am and eight (8) pm.

(e) The Village Manager or his/ her authorized designee shall have the right to grant exceptions to this Ordinance on a case-by-case basis where such exception does not threaten the quiet enjoyment or health, safety, and welfare of the public at large.

(6) Assumption of Risk/Hold Harmless – The holder of any Receptacle Permit shall by the terms of the Permit assume all risk of bodily injury or property damage to the Permit Holder and any/all third parties and indemnify and hold the Village harmless against any and all claims, suits,

or demands of any kind whatsoever which arise directly or indirectly, in whole or in part, from the placement, use, maintenance or transport of the Receptacle.

### **15.13 - PORTABLE STORAGE CONTAINER PERMIT (Ord. 1763)**

No person or business leasing to or from another, selling, or servicing a Portable Storage Container may place or allow placement of a Portable Storage Container in any public right-of-way (street, alley, highway, sidewalk, or any other public way), within the Village without first obtaining a permit from the Village.

(1) Definition. Portable Storage Container – Any container, storage unit, shed-like container or other portable structure, other than an accessory building in full compliance with Village Ordinances or shed complying with all building codes and land use requirements, in excess of ninety-six (96) gallons in volume, that may be or is used for the storage of personal property of any kind and which is located for such purposes outside an enclosed building.

(2) Application – Application forms for Portable Storage Container permits shall be obtained from the Village. Each person engaged in the business of leasing, maintaining or transporting said containers as well as the owner of the property served shall be jointly and severally responsible to fill out a separate application for each Portable Storage Container and said permit shall be valid for the period of time specified thereon not to exceed 7 days. Up to two written extensions for an additional 7 days may be granted, for good cause shown, by the Village Manager.

(3) Fees – The permit fee for each Portable Storage Container placed within the Village are as follows:

- (a) Regular Permit – Allowed for 7 Days \$0.00
- (b) First Extension – Allowed for another 7 Days \$30.00
- (c) Final Extension – Allowed for another 7 Days \$60.00

(4) Placement – The applicant will be responsible for the following with regard to placement:

- (a) Barricades – The applicant will provide lit barricades on either end of any Portable Storage Container placed in any street or alley.
- (b) Location and Maintenance – It shall be the responsibility of the owner of the Portable Storage Container, the owner of the property served by the Portable Storage Container, and the applicant to ensure safe and legal placement and maintenance of Portable Storage Containers in accordance with this section.

(c) General Prohibitions on Placement – The location of the Portable Storage Container shall not:

- (i) Block any building's means of ingress or egress.
- (ii) Block any fire lanes, handicap spaces, hydrants, or pedestrian walkways.
- (iii) Be within 50' of any intersection.
- (iv) Block any bus stop.
- (v) Obstruct a driver's view of traffic signs or signals.

(d) Portable Storage Containers may not be placed on, or nearby to service any, single property for greater than twenty-one (21) days within any twelve (12) month period.

(e) The Police Chief, Fire Chief, Building Inspector or any of their designees may deny a permit if any of them determines that the proposed location of the portable storage container in the street or public right of way threatens quiet enjoyment or the health and welfare of the public at large.

(f) No more than one Portable Storage Container may be placed on, or nearby to service, any single property.

(5) Use – Upon approval of the application, payment of the permit fee, and the filing or completion of all additional requirements, the following requirements shall be observed and enforced throughout the duration of the Portable Storage Container's use.

(a) All Portable Storage Containers shall exhibit a clear and legible demarcation of the owner of the receptacle, contact information, address and a contact phone number.

(b) Portable Storage Containers located on private property do not require a permit but are still subjected to the conditions established in Section 15.13(4) and 15.13(5).

(c) The Portable Storage Containers may not exceed ten (10) feet wide, twenty (20) feet long, and ten (10) feet high.

(d) Portable Storage Containers may only be delivered or removed between the hours of seven (7) am and eight (8) pm.

(e) The Village Manager or his/ her authorized designee may grant exceptions to this Ordinance on a case-by-case basis where

such exception does not threaten the quiet enjoyment or health, safety, and welfare of the public at large.

(6) Assumption of Risk/Hold Harmless – The holder of any Portable Storage Container Permit shall by the terms of the Permit assume all risk of bodily injury or property damage to the Permit Holder and any/all third parties and indemnify and hold the Village harmless against any and all claims, suits, or demands of any kind whatsoever which arise directly or indirectly, in whole or in part, from the placement, use, maintenance or transport of the Portable Storage Container.

**15.14**            **TRANSFER OF SOLID FILL.** (ord. 1332)

No person, firm or institution, public or private, shall transfer to, dump or place upon lands, public or private, solid fill within the Village of Whitefish Bay without first obtaining a permit therefore.

(1)    APPLICATION.

Application for a Filling Permit to transfer, dump or place solid fill within the Village of Whitefish Bay shall be made by the owner of the lands to be filled or his designated agent in writing to the Village Board upon an application made available by the Village. A separate Hauling Permit shall be obtained for each truck or vehicle hauling the fill material. The applicant shall set forth in the application the following information:

- (a) Location of filling operation.
- (b) Proposed route for hauling fill.
- (c) Number, type and size of trucks to be used.
- (d) Proposed trucking schedule, number of days, time of day, etc.
- (e) Other equipment involved in fill operation.
- (f) Descriptions and source of fill material.
- (g) A plan which shall include, but which shall not be limited to a description of area where operation is to take place; intent and purpose of the plan; engineering studies, if any; plan for plantings; plan for grading; cross-section drawings showing the topography of the land before commencing the filling operation, and upon completion of the filling operation; plan for shore protection; and other such requirements, tests, and surveys that may be imposed and information that may be requested by the Village concerning the fill area and access routes thereto.
- (h) Daily maintenance schedule for access and hauling route, including description of the personnel and equipment on site or contracted for this purpose. Applicant shall provide a description of measures to be taken to control dust, mud, ice, storm water, etc.

(2)    FEES.

A non-refundable fee of \$55.00 shall accompany the application for Filling Permit. A non-refundable fee of \$55.00 per truck or vehicle hauling fill materials to the fill area shall be paid. Applicant shall also pay all expenses incurred by the Village for

its review and issuance of the Filling Permit. (ord. 1419)

(3) FILL MATERIAL.

Fill material shall be clean, inert material free from organic matter, brush, garbage and material subject to organic decomposition. Fill containing items such as hollow containers, appliances and equipment subject to subsequent collapse or settlement is prohibited. Generally, material such as earth fill and broken concrete of a size to be approved by the Village Manager will be classified as acceptable fill subject to other permit requirements.

(4) PERMIT.

The Village Board may authorize the Village Manager to issue a Filling Permit to each applicant when it is satisfied that the fill material meets the requirements in (3) above and that the filling operation will not create unreasonable noise, traffic or other problems detrimental to a residential community in the area of said filling. The permit shall not authorize any filling between the hours of 5:00 PM and 7:00 AM on weekdays nor at any time on Saturday, Sunday or on a statutory holiday. The permit may restrict the hours of filling or the number of trucks involved based on the location of the filling operation and the traffic conditions in the area of the filling. The Filling Permit shall be for a period not to exceed three consecutive months. The Hauling Permit shall be for a period not to exceed three consecutive months. Permit applications for subsequent time periods will be subject to conditions and fees governing initial application. Filling and Hauling permits are non-transferable.

(5) CASH DEPOSIT.

The Filling Permit shall not be effective until the posting of a \$1,100.00 cash deposit with the Village. Said cash deposit shall be held by the Village to insure adequate cleanup of streets and surrounding areas from spillage, debris, dust, all other material from the trucks carrying the fill, and inspection of filling operations by Village personnel. In the event the permittee or his contractor fail to clean up the streets at sufficient time intervals, the Village may clean up said streets and use such part of the cash deposit for the expense of cleanup. The Village shall maintain a record of inspections conducted by Village personnel and use such part of the cash deposit for the expense of inspections. In the event that all or any portion of the initial \$1,100.00 cash deposit is used for such clean-up or inspection, the permittee or his contractor shall post additional sums of money so that the deposit will continue to be maintained in the amount of \$1,100.00 for the entire time period of the Filling Permit. (ord. 1419)

(6) BOND.

The Permit shall not be effective until the posting of such surety bond as the Village Board may require to cover possible damage to streets and utilities caused by the fill or the transporting of the fill. The Village Board shall determine the amount of the surety bond to be required in the case of each individual permit, taking into consideration the amount of fill and trucking and the anticipated effect on surrounding streets, public lands and utilities.

(7) The filling Permit shall not be effective until all applicable County, State or Federal licenses or permits are obtained and copies are provided to the Village. This

section shall in no way limit the requirements of those other jurisdictions to restrict or require their approval or permit, if necessary.

(8) Filling operation shall not block a natural drainage course.

(9) This section shall not apply to customary top dressing or fertilizing of lawns and gardens, nor shall it apply to construction of block or concrete patios, driveways or platforms permitted under the Village Code. Filling involved in an operation requiring a building permit or a wrecking permit is exempt from this section of the Code.

(10) SIGNAGE.

Permittee may provide an On-site non-illuminated sign to identify the filling site access. Said sign shall not exceed 36 square feet in size and shall have copy as follows:

"(Name as assigned by Village Manager)"

Normal Operations 7:00 AM to 5:00 PM weekdays

Closed Saturdays, Sundays, Holidays

"Site Open" - "Site Closed" designations

(11) PENALTY.

Any person, firm or institution who is engaged in filling without a permit or who fails to comply with any portion of this section or with the terms and conditions of a permit issued to him shall be subject to suspension of the filling permit and filling activities and to a penalty, upon conviction of such violation, of Five Hundred Dollars (\$500.00), together with the penalty assessments and costs of prosecution and in default of payment of such forfeiture, penalty assessments and costs of prosecution may be imprisoned in the County Jail or House of Correction of Milwaukee County until said forfeiture, penalty assessments and costs are paid, but not exceeding 90 days. A separate offense shall be deemed committed on each day on which a violation of this section occurs or continues. (ord. 1442)

## **15.15      SPECIAL EVENTS (Ord. 1529)**

(1) Special Event - Definitions

Special Event: Means any planned extraordinary occurrence on the public right-of-way or public premises including, but not limited to, parades, processions, bicycle or foot races, or festivals.

(2) Application and Permit Procedure: No person may hold a special event on the public right-of-way or public premises without obtaining a special event permit. Applications and copies of this ordinance are available from the Village Clerk. All applications must be submitted 30 working days prior to the event.

Completed applications shall be filed with the Village Clerk, who will forward a copy to the Village Manager. The Village Manager shall refer copies of the application to the Police Department and to the Department of Public Works. The Police Department will determine the amount of hours of service the event will need and will make recommendations regarding approval, denial, or modification. The Department of Public Works Director will determine the amount of equipment and possible labor costs and will make recommendations regarding approval, denial or modification. The determinations and recommendations shall be forwarded to the Village Manager for his approval, denial, or modification.

Upon approval by the Village Manager, payment of the permit fee, and the filing or completion of all additional requirements, the Village Clerk shall issue a Special Events Permit.

(a) Mapped Routes: All permit applications for special events, including foot or bicycle races, runs, rides, walks, or parades, shall include a detailed map of the proposed route. Routes for annual events must be submitted with the application regardless of whether previously submitted. Recommendations for alteration of routes may be made by the Police Department or the Department of Public Works and may be altered by the Village Manager. In the event that the organizers or sponsors of any special event deviate from the route submitted without approval from the Village, the organizers or sponsors of such special events may be denied a permit for the following calendar year.

(b) Appeal of Permit Denials: Any applicant who has been denied a special event permit or has had an application modified may, upon written request to the Village Clerk, have the denial reviewed by the Village Board Public Safety Committee which shall either affirm, reverse, or modify the initial action on the application. Such determination by the Committee shall constitute final action.

(c) Fees: The applicant for the special event shall pay a permit fee within five (5) working days of the approval by the Village Manager. The permit fee for all special events shall be estimated costs of the event to the Village, including salary and benefits for police officers and DPW workers, as determined by the Village Manager plus a \$35.00 administrative fee. The permit fees may be waived by the Village Manager for events occurring solely within the Village which are conducted by charitable nonprofit organizations or are of a civic nature. (Ord. 1596)(Ord. 1789)

(d) Refunds: Permit fee payments may be refunded if notification of cancellation of a permitted special event by the applicant is received by the Village Manager at least 10 working days prior to the scheduled event.

(3) Permit Regulations:

(a) Village Not Liable: The Special Event Permit Application shall contain a statement that: "The applicant agrees to indemnify and save the Village harmless from and against all liabilities, claims, demands, judgments, losses, and all suits of law or in equity, costs, and expenses, including reasonable attorney fees, for injury or death of any person, or

damage to any property arising from the holding of such special event". No permit may be issued unless the applicant has agreed to the terms of this statement on the written application.

(b) Insurance:

(1) Each applicant of a special event shall furnish the Village Manager with a certificate of insurance written by a company licensed in the State of Wisconsin, approved by the Village Manager, and covering any and all liability or obligations which may result from the operations by the applicant, the applicant's employees, agents, contractors, or subcontractors, and including worker's compensation coverage in accordance with Wis. Stats. Chapter 101. This certificate shall provide that the company will furnish the Village a 10 day written notice of cancellation, nonrenewal, or material change thereof. This insurance shall be written in comprehensive form and shall protect the applicant and Village against all claims arising out of any act or omission of the applicant, its employees, agents, contractors, or subcontractors.

(2) The policy of insurance shall provide minimum combined single limits for bodily injury and property damage of \$1,000,000 or such other insurance limits as deemed adequate by the Village Manager.

(3) The certificate of insurance must be submitted to the Village Clerk within 10 days of the approval of the permit by the Village Manager.

Section 15.15 (3) (c)

(c) Cleanup: It will be the responsibility of the applicant to remove any signs they have posted and remove all equipment, materials, and debris left as a result of the event. This must be done within 4 hours of the termination of the event. The applicant will be responsible for reimbursing the Village for cleanup costs if this section is not adhered to.

(4) No Discrimination: The special event permit application shall contain a statement: "The applicant agrees that during the use of the public area the sponsoring organization will not exclude any person from participation in, deny anyone the benefits of, or otherwise subject anyone to discrimination because of race, color, national origin, or handicap." No permit may be issued unless the applicant has agreed to the terms of this statement on the written application.

**15.16**

**WITHHOLDING OF LICENSES AND PERMITS FOR DELINQUENCIES.**  
(Ord. 1589) (Ord 1746) (Ord. 1778)

(1) No license, approval, letter or permit, authorized or required under any section of this Municipal Code, may be issued to:

(a) any individual, partnership, corporation or any other association or legal entity or its affiliates, subsidiaries,

beneficiaries, principals, shareholders, heirs, or assigns (hereinafter "Person") who or which is delinquent in the payment of any municipal tax, assessment, fee, or forfeiture; or

(b) any Person where such license, approval, letter or permit applies to a particular property or premises on which any municipal tax, assessment, fee, or forfeiture is currently delinquent.

(2) The Village Clerk shall review the records for possible delinquencies prior to the issuance of any license or permit. In the event of a delinquency, the Village Clerk shall notify the Person in writing of the specific delinquency and the fact that the license or permit is being withheld for that reason.

(3) Any determination by the Village Clerk that a delinquency exists, resulting in the withholding of a license or permit, may be appealed to the Village Board, which Board shall conduct a hearing to review the determination of the Village Clerk as to the existence of the delinquency.

## **15.17 DEMOLITION OF BUILDINGS (ORD. 1697)**

### **(1) FINDINGS REGARDING DEMOLITION OF STRUCTURES:**

The Village of Whitefish Bay finds that Demolition, unless properly and timely conducted, presents a hazard to public safety and can have a blighting effect on Village neighborhoods.

### **(2) PERMIT REQUIRED FOR DEMOLITION:**

Except as provided in Sec. 18.13 of the Municipal Code, no person may demolish any structure enclosing more than 200 square feet of floor area or footprint or may demolish any structure that is more than 20 feet high unless a Demolition Permit to do so has first been obtained from the Building Inspector as provided in this Section. Such Demolition Permit is valid for 30 days from issuance, except that the Building Inspector may grant one 30-day extension for cause. The requirements for the Demolition Permit stated in this Section are in addition to any other Federal, State, Regional Authority, or Village regulations and permits that may apply. For structures between 200 square feet and 576 square feet of floor area or footprint, the Building Inspector may accept certification by the owner or contractor regarding compliance with the requirements in Section 1(3)(b), Section 1(3)(c), and Section 1(3)(d).

### **(3) REQUIRED STEPS FOR DEMOLITION OF STRUCTURES:**

Any person wishing to demolish a Structure must comply with the following

required steps:

(a) Application to Building Inspector for a Demolition Permit:

Any person applying to the Building Inspector for a Demolition Permit must include in such application the following:

- (1) Payment for all applicable fees;
- (2) The address of the structure;
- (3) The owner's name, address, and phone number;
- (4) The contractor's name, address, and phone number;
- (5) A copy of contract for Demolition and contractor or owner proof of insurance in such form and coverage limits as approved by the Village Manager in his or her sole discretion;
- (6) A projected schedule that provides for carrying out all work as expeditiously as possible;

(7) Site plans showing features to be removed or retained, including existing and proposed landscaping, utilities, and site restoration. The site plan must also show fencing and other safety measures to be utilized and work staging areas. If new Structures are proposed, the plans must show their location along with all related site improvements, utilities, and the schedule for such construction;

(8) An erosion control plan that meets the requirements of the Village Storm Water Management Regulations contained in Section 13.57 of the Municipal Code;

(9) A plan for controlling dust and debris not covered by the erosion control under Section 13.57 of the Municipal Code, to include arrangements for spraying water during demolition for this purpose as needed;

(10) A Certificate of Appropriateness if a designated historic structure is involved pursuant to Sec. 16.25 of the Village Code; and

(11) Irrevocable permission for the Building Inspector to enter onto the property subject to the permit during the time the permit is under application or in effect.

(12) For projects over 576 square feet, copies of letters sent by regular U.S. mail delivery by the applicant to neighbors within the Design Area as defined in Section 16.31 providing notice that application for a demolition permit is being filed, and providing a description of the resulting use of the property and anticipated work schedule. A copy of such letter shall also be provided to the Village Board and the web master for posting on the Village website.

(b) Inspection by Building Inspector Prior to Demolition:

In performing any inspection in connection with the Demolition of a Structure, the Building Inspector shall confirm that the following work is done, that the work is done by permit (if required), and that it is done to the satisfaction of the Village Engineer:

(1) Water service shall be disconnected at the main, unless the service will be re-used and is in good condition, and Village personnel shall perform a final meter reading and remove the water meter;

(2) Sewer laterals shall be capped at the main, unless the lateral will be re-used and is in good condition;

(3) Sites shall be marked by Digger's Hotline and the work plan shall give due consideration to conditions determined by Digger's Hotline;

(4) Private utilities shall be disconnected, including, but not limited to, electric, gas, telephone, CATV, and telephone;

(5) Procedures and requirements of the Wisconsin Administrative Code regarding asbestos shall be followed and a copy of the survey report and DNR approval provided;

(6) Properties shall be checked for, and materials shall be removed as required by the DNR's Pre-Demolition Environmental Checklist, as amended from time to time;

(7) An erosion control plan shall be in place that includes provisions for addressing airborne dust and debris. Such plan shall be approved by the Village Engineer and complied with;

(8) Fencing and other site safety measures as prescribed by the Building Inspector pursuant to this Section shall be in place; and

(9) Use of the public water system in connection with demolition and construction activities shall be arranged with the Village at least five (5) working days prior to the activity. Arrangements for any fees associated with the use of Village water shall be made prior to such use.

(10) For projects over 576 square feet, neighbors within the Design Area as defined in Section 16.31 and the Building Inspector, Police Chief, Fire Chief, Village Manager shall be notified by certified letter or hand delivery at least seven (7) days prior to demolition, advising them of the anticipated date and duration of demolition.

(c) Inspection by Building Inspector after Demolition and Prior to Backfilling:

In removing a Structure's foundation in connection with the Demolition of a Structure, the Building Inspector shall confirm that the following work was done:

(1) For the Demolition of a residential structure, all underground installations, including walls, foundations, footings, and basement floors were removed. All existing slabs at the grade used in connection with the structures being demolished were removed. Notwithstanding the foregoing, finely broken material of not larger than one-half square foot on any side may be utilized for fill to the extent not otherwise prohibited by law; and

(2) For the Demolition of a commercial structure, all underground installations, including foundations, footings, basement floors, grade beams, walls, piers, caissons, and piles shall be removed to a depth that is two (2) feet below the lowest usable level of the structure being demolished. If underground installations remain below two (2) feet below the lowest usable level of the structure being demolished, the Building Inspector shall confirm that a certified site plan identifying the location of such underground installations was filed with the Building Inspector and an appropriate notice of the underground condition was filed with the Milwaukee County Register of Deeds or approved GIS registry.

Section 15.17 (3d)

(d) Inspection by Building Inspector Following Backfilling and Site Restoration:

After backfilling and site restoration is completed with respect to the Demolition of a structure, the Building Inspector shall confirm that the following measures taken:

(1) Temporary fencing, safety, erosion, and dust control, and other pertinent measures shall be taken as directed by the Building Inspector if the site is to be backfilled or built upon with a new substantial structure within 10 days;

(2) The site shall be completely secured by a chain link fence at least six feet in height and such other safety, erosion, and dust control, and other pertinent measures were taken as prescribed by the Building Inspector if the site is to be backfilled or built upon with a new home or other similar substantial structure within 11 to 30 days; and

(3) The site shall be backfilled and graded to match and accommodate the surroundings and promote good drainage within the lot to preclude the blockage of existing drainage from other parcels and preclude the discharge of drainage from this site onto adjacent parcels. The site should be sodded or seeded and strawed, and otherwise landscaped to be compatible with the neighborhood if the site is not to be built upon within 30 days.

(4) GENERAL CONDITIONS APPLICABLE TO DEMOLITION PROJECTS: (Ord 1714)

The following general conditions are applicable to all Demolition projects:

(a) All work must be conducted in a manner that protects life and property, including neighboring parcels and public property. The contractor shall provide and maintain barricades, lights, fencing, flagmen, watchmen, and such other facilities or personnel as may be necessary and prescribed by the Building Inspector or Village Engineer;

(b) Chain link fencing shall be strong and secure, a minimum of six (6) feet high, completely surrounding the work area, and of a design and construction 4) so there is no opening larger than a six (6) inch sphere from the ground to the top of the fence. If there is a locked gate, provision must be made so the Building Inspector has access at all times;

(c) Existing trees, shrubs, and grass areas that do not have to be disturbed must be preserved, including replacement if damaged in conjunction with demolition work;

(d) All dry mortar, lime, brick dust, or other flying material, before and during removal, must be dampened sufficiently to prevent it from floating or being blown into the street or on adjoining property, and all sidewalks must be protected by fences and scaffolds to the satisfaction of the Building Inspector;

Section 15.17 (4)(e)

(e) The owner and/or contractor is responsible for cleaning and repairing streets, curbs, driveways, sidewalks, and alleys that were damaged or soiled, or upon which materials were deposited as a result of any Demolition activity to the satisfaction of the Building Inspector;

(f) Waste material and rubbish may not be stored nor allowed to accumulate within the Building or in the immediate vicinity, but shall be removed from the premises as rapidly as practicable. All materials must be removed from the premises in a safe manner and in compliance with all ordinances;

(g) Burning and/or brick cleaning are not permitted on the job site;

(h) No decomposable material or material that contains debris may be used as fill;

(i) Owner is responsible for the successful germination of seed and ongoing condition of the site until vegetation is re-established, including dust control and erosion;

(j) The contractor shall furnish, install, and maintain ample sanitary facilities for workers;

(k) Upon failure by the owner to comply with this Section, the Building Inspector may enter upon the premises with such assistance as may be necessary, causing the existing conditions to be corrected and the cost thereof charged against the property. The resulting lien thereon will be collected as a special tax;

(l) All wells, underground storage tanks, septic tanks, and other subterranean structures must be abandoned or removed in accordance with this Section and applicable state and federal law;

(m) No material may be stored within the public right of way without the approval of the Village Engineer;

(n) The site shall be restored and backfilled, or construction of a new permitted structure commenced, within 30 days of completion of demolition; and

(o) The owner of the structure(s) to be demolished shall submit photographs of the exterior of the structure(s) proposed to be demolished, or altered, with elevation views of each face of the building(s), and corner perspectives showing the relationship of the structure(s) to the property; as well as of historic or architectural artifact(s) in the interior of the structure(s) that may be unique to or characteristic of the property, with a written description of the artifact(s). When possible, the owner will work with the demolition contractor to salvage and reuse, donate or sell the artifact(s).

Section 15.17 (4)(p)

(p) The owner of the structure(s) to be demolished shall submit the following information, with citations, subject to availability:

- Date of construction
- Name of architect and builder
- Name of original and subsequent owners

- Description of artifact(s), including dimensions, materials used, name of artisan(s), manner of disposal, and name, address and phone number of new owners.

(q) Prior to issuing a final permit for demolition, the Building Inspector shall present the details of the application for demolition permit to the Village Board.

(5) SPECIAL EXCEPTIONS REGARDING DEMOLITIONS:

Special exceptions regarding the requirements of this Section may be obtained pursuant to Section 16.20 of the Zoning Code.

(6) PENALTIES AND COMPLETION OF PERFORMANCE:

Each day of violation of any provision of this Section shall be considered a separate violation subject to the penalty provisions of Chapter 17 of the Code.

The Village Manager may direct that any requirement of this Section which has not been performed by the owner of a property subject to demolition permit requirements be performed by Village employees or third-party contractors and that the cost of such work, including administrative costs, be placed on the property tax bill of the property pursuant to Section 66.027, Wis. Stats.

(7) FEES:

Fees for Demolition Structures shall be as determined by the Village Board from time to time.

SECTION 2: The following fees are hereby established:

- (1) A fee of \$500 applies to the Demolition of any structure greater than 576 square feet; and
- (2) A fee of \$150 applies to the Demolition of any structure of 576 feet or less (where no demolition permit has been issued on the same property for demolition under (1) above in the previous 90 days); and
- (3) A fee of \$500 for a 30-day extension of permit (which fee may be reduced by the Building Inspector on a finding of hardship).

Section 15.19

**15.19 CLOSING OUT AND PARTIAL REMOVAL SALES (ORD. 1745)**

(1) DEFINITIONS.

(a) Advertising. Any and all means of conveying to the public notice of sale or notice of intention to conduct the sale, whether by word of mouth, or by newspaper advertisement, by magazine advertisement, by handbill, by written notice, by printed

notice, by printed display, by banner, by billboard display, by poster, by radio or television announcement and any and all means, including oral, written or printed.

(b) Applicant. Any person (including entities and organizations of any kind) applying for or required to apply for a license under this section.

(c) Closing out sale. The sale or auction of any goods, wares or merchandise at retail represented or advertised in any manner to be the goods, wares or merchandise of a bankrupt, insolvent, assignee, liquidator, adjuster, administrator, trustee, executor, receiver, wholesaler, jobber, manufacturer, or of any business that is in liquidation, or that is selling out or closing out, closing or disposing of its stock or a particular part or department thereof, or that has lost its lease or has been or is being forced out of business, or that is conducting a removal sale, or is disposing of stock on hand because of damage by fire, water, smoke or other causes, or that the business conducting the sale is selling the goods, wares or merchandise of any other business which is in liquidation or has quit business or a sale that is held out in such manner as to reasonably cause the public to believe that the person conducting the sale will cease and discontinue business at the place of sale upon the disposal of the stock of goods on hand. Closing out sales are sometimes referred to, without limitation, as "going out of business" or "liquidation" sales or auctions.

(d) Partial removal sale. A sale in the regular course of its business of goods represented to have been purchased from a bankrupt, insolvent, assignee, liquidator, adjuster, administrator, trustee, executor, receiver, wholesaler, jobber, manufacturer, or person, that is liquidating or that has been forced out of business while at the same time the applicant sells at its place or places of business goods, wares and merchandise out of its regular stock where the applicant will not discontinue its regular business after such sale.

(2) LICENSE REQUIRED. It shall be unlawful for any person to advertise or conduct at retail within the Village any closing out sale or partial removal sale without first having obtained a license to conduct such sale.

(3) APPLICATION. Every person requiring a closing out sale license or partial removal sale license shall make a verified application in writing to the Village Manager or designee. The Village Manager or designee may approve a license at any time within 30 days after such application. There shall be no advertisement or commencement of such sale until said license is issued and in effect. As a part of such application such person shall submit the following:

(a) A complete and accurate list of the stock of goods, wares and merchandise on hand to be offered at such sale accompanied by certification that the information set forth in said inventory is true and correct according to commonly accepted accounting practices within the trade. Such inventory shall contain the cost price as well as the initial marked retail price of the respective articles enumerated therein, together with the date of purchase or purchases and the names and addresses of the sources from which merchandise was obtained. If the goods, wares and merchandise were purchased by the applicant for a lump sum or other circumstances that in the judgment of the Village Manager make the listing of the cost price for each article impracticable, said inventory shall state the lump sum paid for said goods, wares and merchandise and the circumstances of the purchase of the same.

(b) An affidavit setting forth the names and address of the person, such as partners, officers, directors, principal stockholders and owners of the business and merchandise, the place at which said sale is to be conducted, the names and addresses of any person or persons aiding in or conducting said sale other than employees of the applicant who have been employed for not less than 90 days prior to the application, and the period of time during which the proposed sale is to continue. Applicant must have been the owner of the business described in the application for at least 12 months prior to the date of the application.

(c) Certification that no stock has been ordered for or added to the applicant's stock within a period of 60 days prior to the filing of the application.

(d) Such other information as the Village Manager or designee may require.

(e) Paragraphs a to c shall only apply to closing out sales and shall not be required in partial removal sales.

(4) TIME OF SALE.

(a) No license shall be granted by the Village Manager or designee for a period in excess of 60 successive days from the date of the issuance of said license.

(b) Extensions. The period of time for which a license may be granted may be extended by the Village Manager or designee beyond said 60 day period upon receipt of a certified application. Said application for an extension shall certify the amount of goods, wares and merchandise listed in the original inventory which have been sold since the issuance of the license and the amount of goods contained in the original inventory which still remain in the possession of the applicant for sale, and shall state the length of time for which an extension is requested. The Village Manager or designee may grant or deny an extension of up to 60 days from the expiration of the original license. The fee for the extension of the license shall be determined by the Village Board.

(5) CONDUCT OF SALE.

(a) No stock of goods, wares, or merchandise may be added to the inventory of stock being sold if the same was ordered or received within 60 days prior to the application for license, and no stock may be added during said sale.

(b) No advertisement of such sale shall set forth the previous retail price of any merchandise being reduced in price as a part of the sale unless identical merchandise was sold continuously at such retail price during a period of time at least 90 days prior to the commencement of the sale. Evidence of such prior sales shall be available on demand.

(c) No labels using the applicant's business name or any other known brand name may be placed on any merchandise for purposes of or during the sale, unless labels had been placed on identical merchandise which was sold continuously during a period of time at least 90 days prior to the commencement of such sale.

(d) If any person or persons are retained to conduct or manage the sale, other than the applicant or employees who have been employed continuously for at least 90 days

prior to the commencement of the sale, the names and addresses of such persons shall be clearly stated in all advertising material.

(e) At the end of each week of such sale and within 2 days thereafter, the applicant shall submit to the Village Manager or designee a statement certifying the total of retail selling prices of the inventory sold during that week and the total amount of inventory remaining to be sold.

(f) At the end of the time of closing out sale under the license, it shall be unlawful for the applicant, or any successor in interest, to sell at retail any of the stock of goods remaining at the location for which the license was issued.

(g) At the end of the time of closing out sale under the license, any conditional use permit applicable to the business shall, to the extent it addresses the use subject to the license, be immediately terminated. No further use of the type subject to the license shall be permitted. (Ord. 1755)

(6) DENIAL OR REVOCATION OF LICENSE. Whenever the Village Manager or designee finds that the applicant, his agents, servants or employees have failed to provide any of the information required with the application or during the sale, or have furnished any false information, or have failed to comply with any of the requirements of this section, the Village Manager or designee shall deny the application or revoke the license.

(7) REPETITIOUS SALES PROHIBITED. (Ord. 1755) No entity, person, affiliate or successor in interest may be granted a license to conduct a closing out sale within eighteen (18) months after the completion of a closing out sale at the same location regardless of affiliation with the current business at the location, or within eighteen (18) months after the completion of a closing out sale anywhere in the Village by that person or entity, or their successors or affiliates.

(8) PARTIAL REMOVAL SALES. Any person conducting a partial removal sale shall comply with all of the provisions of this section and, in addition, shall distinguish by a colored tag all of the goods being sold at the sale so that said goods are readily ascertainable to prospective purchasers and shall not label or tag any other goods not included in the inventory furnished the city sealer in the same or like manner.

(9) FEES. License fees shall be as determined by the Village Board from time to time.

(10) EXCEPTIONS. The provisions of this section shall not apply to sales by public officers or sales under judicial process.

SEVERABILITY: In the event that any provision of this Ordinance is for any reason to be invalid, unconstitutional, or unenforceable by any court of competent jurisdiction, such portions of this Ordinance shall be deemed separate, distinct, and independent provisions of the Ordinance and all remaining portions of this Ordinance shall remain in full force and effect. (Ord. 1755)

**15.20** **PENALTY**. (Ord. 1529 & 1589)

Any person who shall violate any provisions of this Chapter shall be subject to a

penalty as provided in Section 17.04 of this code, in addition to the specific penalties provided in this Chapter. A separate offense shall be deemed committed on each day on which a violation of this Chapter occurs or continues.