

## **Title 3**

### **BUSINESS REGULATIONS**

#### **CHAPTER 1**

#### **MUNICIPAL TAXATION**

##### **3-1-1 MUNICIPAL UTILITY TAX**

- A. Established: A municipal tax is hereby established as provided for by Illinois statutes, imposing upon all persons engaged in the occupation of providing, distributing, supplying, furnishing or selling water, gas, electricity or telephone for use or consumption within the corporate limits of this municipality, at a rate of five percent (5%) of the gross receipts therefrom.
- B. Gross Receipts Exemption: "Gross receipts" shall not include receipts received from the Village for the sale to said municipality of any of the utility products or service mentioned herein.
- C. Payments and Records: Payment of said municipal utility tax shall be made to the Village on a quarterly basis. All utilities subject to the provisions of this section shall provide the Village with a true and accurate copy of their annual report filed with the Illinois commerce commission within ten (10) days of the required filing date.
- D. Certified Copy: The village clerk shall transmit a certified copy of these provisions to the respective utility companies providing water, gas, electric or telephone services within the corporate limits of the Village.
- E. Exemption: Notwithstanding anything to the contrary elsewhere in this section, the providing, distributing, supplying, furnishing, or selling of water, gas, electricity or telephone to the Island Lake sanitary district shall be exempt from taxation under this section.
- F. Tax Imposed: A tax is imposed on all persons engaged in the following occupations or privileges:
  - 1. The privilege of using or consuming electricity acquired in a purchase at retail and used or consumed within the corporate limits of the municipality at the following rates, calculated on a monthly basis for each purchaser:
    - a. For the first 2,000 kilowatt hours used or consumed in a month: 0.610 cents per kilowatt hour;
    - b. For the next 48,000 kilowatt hours used or consumed in a month: 0.400 cents per kilowatt hour;
    - c. For the next 50,000 kilowatt hours used or consumed in a month: 0.360 cents per kilowatt hour;
    - d. For the next 400,000 kilowatt hours used or consumed in a month: 0.350 cents per kilowatt hour;

- e. For the next 500,000 kilowatt hours used or consumed in a month: 0.340 cents per kilowatt hour;
  - f. For the next 2,000,000 kilowatt hours used or consumed in a month: 0.320 cents per kilowatt hour;
  - g. For the next 2,000,000 kilowatt hours used or consumed in a month: 0.315 cents per kilowatt hour;
  - h. For the next 5,000,000 kilowatt hours used or consumed in a month: 0.310 cents per kilowatt hour;
  - i. For the next 10,000,000 kilowatt hours used or consumed in a month: 0.305 cents per kilowatt hour;
  - j. For all electricity used or consumed in excess of 20,000,000 kilowatt hours in a month: 0.300 cents per kilowatt hour.
2. Pursuant to 65 ILCS 5/8-11-2, the rates set forth in subsection F1 of this section shall be effective: a) on August 1, 1998, for residential customers; and b) on the earlier of: 1) the first bill issued on or after January 1, 2001, or 2) the date of the first bill issued pursuant to 220 ILCS 5/16-104, for nonresidential customers.
  3. Pursuant to 65 ILCS 5/8-11-2, chapter 39, section 36(a) of the code (commonly known as the gross receipts utility tax) shall specifically remain in effect:
    - a. For receipts attributable to residential customers, until July 31, 1998; and
    - b. For receipts attributable to nonresidential customers, the earlier of: 1) through the last bill issued prior to December 31, 2000, or 2) the date of the first bill issued to such nonresidential customers pursuant to 220 ILCS 5/16-104.
  4. The provisions of this subsection F shall not be effective until August 1, 1998.
    - a. Exceptions: None of the taxes authorized by this subsection F may be imposed with respect to any transaction in interstate commerce or otherwise to the extent to which the business or privilege may not, under the constitution and statutes of the United States, be made the subject of taxation by this state or any political subdivision thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing, or selling or transmitting gas, water, or electricity, or engaged in the business of transmitting messages, or using or consuming electricity acquired in a purchase at retail, be subject to taxation under the provisions of this subsection F for those transactions that are or may become subject to taxation under the provisions of the municipal retailers' occupation tax act as authorized by 65 ILCS 5/8-11-1; nor shall any tax authorized by this subsection F be imposed upon any person engaged in a business or on any privilege unless the tax is imposed in like manner and at the same rate upon all persons engaged in businesses of the same class in the municipality, whether privately or municipally owned or operated, or exercising the same privilege within the municipality. Additional Taxes: Such tax shall be in addition to other taxes levied upon the taxpayer or its business.
    - b. Collection: The tax authorized by this subsection F shall be collected from the purchaser by a person maintaining a place of business in this state who delivers the electricity to the purchaser. This tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser and if unpaid, is recoverable in the same manner as the original

charge for delivering the electricity. Any tax required to be collected pursuant to this subsection F and any such tax collected by a person delivering electricity shall constitute a debt owed to the municipality by such person delivering the electricity, provided that the person delivering electricity shall be allowed a credit for such tax related to deliveries of electricity the charges for which are written off as uncollectible, and provided further, that if such charges are thereafter collected, the delivering supplier shall be obligated to remit such tax. Persons delivering electricity shall collect tax from the purchaser by adding such tax to the gross charge for delivering the electricity. Persons delivering electricity shall also be authorized to add to such gross charges an amount equal to three percent (3%) of the tax to reimburse the person delivering electricity for the expense incurred in keeping records, billing customers, preparing and filing returns, remitting the tax and supplying data to the municipality upon request. If the person delivering electricity fails to collect the tax from the purchaser, then the purchaser shall be required to pay the tax directly to the municipality in the manner prescribed by the municipality. Persons delivering electricity who file returns pursuant to this subsection F shall, at the time of filing such return, pay the municipality the amount of the tax collected pursuant to this subsection F.

c. Reports to Municipality: On or before the last day of each month, each taxpayer who has not paid the tax imposed by this subsection F to a person delivering electricity as set forth in subsection F4c of this section and who is not otherwise exempted from paying such tax shall make a return to the village treasurer for the preceding month stating:

- (1) His name.
- (2) His principal place of business.
- (3) His gross receipts and/or kilowatt hour usage during the month upon the basis of which the tax is imposed.
- (4) Amount of tax.
- (5) Such other reasonable and related information as the corporate authorities may require.

The taxpayer making the return herein provided for shall, at the time of making such return, pay to the Village, the amount of tax herein imposed; provided that in connection with any return, the taxpayer may, if he so elects, report and pay an amount based upon his total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments based upon any differences between such billings, and the taxable gross receipts.

e. Credit For Overpayment: If it shall appear that an amount of tax has been paid which was not due under the provisions of this subsection F, whether as the result of a mistake of fact or an error of law then such amount shall be credited against any tax due, or to become due, under this subsection F from the taxpayer who made the erroneous payment; provided that no amounts erroneously paid more than three (3) years prior to the filing of a claim therefor shall be so credited. No action to recover any amount of tax due under the provisions of this subsection F shall be commenced more than three (3) years after the due date of such amount.

- f. Penalty: Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this subsection F is guilty of a misdemeanor and, upon conviction thereof, shall be fined in the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code, and in addition, shall be liable in a civil action for the amount of tax due.
- g. Unconstitutionality: In the event that public act 90-561 is declared unconstitutional, or if this subsection F is voided by court action, the provisions of subsection A of this section (commonly known as the gross receipts utility tax) shall remain in effect in all respects as if it had never been amended by this subsection F, and any amounts paid to the Village by any person delivering electricity pursuant to this subsection F shall be deemed to have been paid pursuant to the gross receipts utility tax as it existed prior to the passage of this subsection F.

**3-1-2 MUNICIPAL CANNABIS RETAILERS' OCCUPATION TAX** (Added 12/12/2019)

- A. Established: A municipal tax is hereby established as provided for by Illinois statutes, imposing upon all persons engaged in the business of selling cannabis, other than cannabis purchased under the Compassionate Use of Medical Cannabis Pilot Program Act, at retail within the corporate limits of this municipality, at a rate of three percent (3%) of the gross receipts therefrom.
- B. Payments:
  - 1. Payment of said municipal cannabis retailers' occupation tax shall be made by such retailer to the Illinois Department of Revenue. Any tax required to be collected pursuant to or as authorized by this section and any such tax collected by such retailer and required to be remitted to the Department of Revenue shall constitute a debt owed by the retailer to the State of Illinois. A retailer may reimburse itself for its seller's tax liability hereunder by separately stating that tax as an additional charge, which charge may be stated in combination, in a single amount, with any State tax that a seller is required to collect.
  - 2. The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Department of Revenue. The Department of Revenue shall have full power to administer and enforce the provisions of this article.

**3-1-3 LOCALLY IMPOSED AND ADMINISTERED TAX RIGHTS AND RESPONSIBILITY**

- A. Title: This section shall be known as, and may be cited as, the *LOCALLY IMPOSED AND ADMINISTERED TAX RIGHTS AND RESPONSIBILITY ORDINANCE*.
- B. Scope: The provisions of this section shall apply to the Village's procedures in connection with all of the Village's locally imposed and administered taxes.

- C. Definitions: Certain words or terms herein shall have the meanings ascribed to them as follows:

ACT: The "Local Government Taxpayers' Bill of Rights Act".

CORPORATE AUTHORITIES: The Village's mayor and board of trustees.

LOCAL TAX ADMINISTRATOR: The Village's treasurer is charged with the administration and collection of the locally imposed and administered taxes, including staff, employees or agents to the extent they are authorized by the local tax administrator to act in the local tax administrator's stead. The local tax administrator shall have the authority to implement the terms of this section to give full effect to this section. The exercise of such authority by the local tax administrator shall not be inconsistent with this section and the act.

LOCALLY IMPOSED AND ADMINISTERED TAX OR TAX: Each tax imposed by the Village that is collected or administered by the Village, not an agency or department of the state. It does not include any taxes imposed upon real property under the property tax code or fees collected by the Village other than infrastructure maintenance fees.

NOTICE: Each audit notice, collection notice or other similar notice or communication in connection with each of the Village's locally imposed and administered taxes.

TAX ORDINANCE: Each ordinance adopted by the Village that imposes any locally imposed and administered tax.

TAXPAYER: Any person required to pay any locally imposed and administered tax and generally includes the person upon whom the legal incidence of such tax is placed and with respect to consumer taxes includes the business or entity required to collect and pay the locally imposed and administered tax to the Village.

VILLAGE: The Village of Island Lake, Illinois.

- D. Notices: Unless otherwise provided, whenever notice is required to be given, the notice is to be in writing mailed not less than seven (7) calendar days prior to the day fixed for any applicable hearing, audit or other scheduled act of the local tax administrator. The notice shall be sent by the local tax administrator as follows:

1. First class or express mail, or overnight mail, addressed to the persons concerned at the persons' last known address, or
2. Personal service or delivery.

- E. Late Payment: Any notice, payment, remittance or other filing required to be made to the Village pursuant to any tax ordinance shall be considered late unless it is: 1) physically received by the Village on or before the due date, or 2) received in an envelope or other container displaying a valid, readable U.S. postmark dated on or before the due date, properly addressed to the Village, with adequate postage prepaid.

- F. Payment: Any payment or remittance received for a tax period shall be applied in the following order: 1) first to the tax due for the applicable period; 2) second to the

interest due for the applicable period; and 3) third to the penalty for the applicable period.

G. Certain Credits and Refunds:

1. The village shall not refund or credit any taxes voluntarily paid without written protest at the time of payment in the event that a locally imposed and administered tax is declared invalidly enacted or unconstitutional by a court of competent jurisdiction. However, a taxpayer shall not be deemed to have paid the tax voluntarily if the taxpayer lacked knowledge of the facts upon which to protest the taxes at the time of payment or if the taxpayer paid the taxes under duress.
2. The statute of limitations on a claim for credit or refund shall be two (2) years after the end of the calendar year in which payment in error was made. The village shall not grant a credit or refund of locally imposed and administered taxes, interest, or penalties to a person who has not paid the amounts directly to the Village.
3. The procedure for claiming a credit or refund of locally imposed and administered taxes, interest or penalties paid in error shall be as follows:
  - a. The taxpayer shall submit to the local tax administrator in writing a claim for credit or refund together with a statement specifying:
    - (1) The name of the locally imposed and administered tax subject to the claim;
    - (2) The tax period for the locally imposed and administered tax subject to the claim;
    - (3) The date of the tax payment subject to the claim and the canceled check or receipt for the payment;
    - (4) The taxpayer's recalculation, accompanied by an amended or revised tax return, in connection with the claim; and
    - (5) A request for either a refund or a credit in connection with the claim to be applied to the amount of tax, interest and penalties overpaid, and, as applicable, related interest on the amount overpaid; provided, however, that there shall be no refund and only a credit given in the event the taxpayer owes any monies to the village.
  - b. Within ten (10) days of the receipt by the local tax administrator of any claim for a refund or credit, the local tax administrator shall either:
    - (1) Grant the claim; or
    - (2) Deny the claim, in whole or in part, together with a statement as to the reason for the denial of the partial grant and denial.
  - c. In the event the local tax administrator grants, in whole or in part, a claim for refund or credit, the amount of the grant for refund or credit shall bear interest at the rate of six percent (6%) per annum, based on a year of three hundred sixty five (365) days and the number of days elapsed, from

the date of the overpayment to the date of mailing of a refund check or the grant of a credit.

- H. Audit Procedure: Any request for proposed audit pursuant to any local administered tax shall comply with the notice requirements of this section.
1. Each notice of audit shall contain the following information:
    - a. The tax;
    - b. The time period of the audit; and
    - c. A brief description of the books and records to be made available for the auditor.
  2. Any audit shall be conducted during normal business hours and if the date and time selected by the local tax administrator is not agreeable to the taxpayer, another date and time may be requested by the taxpayer within thirty (30) days after the originally designated audit and during normal business hours.
  3. The taxpayer may request an extension of time to have an audit conducted. The audit shall be conducted not less than seven (7) days nor more than thirty (30) days from the date the notice is given, unless the taxpayer and the local tax administrator agreed to some other convenient time. In the event the taxpayer is unable to comply with the audit on the date in question, the taxpayer may request another date within the thirty (30) days, approved in writing, that is convenient to the taxpayer and the local tax administrator.
  4. Every taxpayer shall keep accurate books and records of the taxpayer's business or activities, including original source documents and books of entry denoting the transactions which had given rise or may have given rise to any tax liability, exemption or deduction. All books shall be kept in the English language and shall be subject to and available for inspection by the village.
  5. It is the duty and responsibility of every taxpayer to make available its books and records for inspection by the village. If the taxpayer or tax collector fails to provide the documents necessary for audit within the time provided, the local tax administrator may issue a tax determination and assessment based on the tax administrator's determination of the best estimate of the taxpayer's tax liability.

6. If an audit determines there has been an overpayment of a locally imposed and administered tax as a result of the audit, written notice of the amount of overpayment shall be given to the taxpayer within thirty (30) days of the village's determination of the amount of overpayment.
7. In the event a tax payment was submitted to the incorrect local governmental entity, the local tax administrator shall notify the local governmental entity imposing such tax.
  - I. Appeal:
    1. The local tax administrator shall send written notice to a taxpayer upon the local tax administrator's issuance of a protestable notice of tax due, a bill, a claim denial, or a notice of claim reduction regarding any tax. The notice shall include the following information:
      - a. The reason for the assessment;
      - b. The amount of the tax liability proposed;
      - c. The procedure for appealing the assessment; and
      - d. The obligations of the Village during the audit, appeal, refund and collection process.
    2. A taxpayer who receives written notice from the local tax administrator of a determination of tax due or assessment may file with the local tax administrator a written protest and petition for hearing, setting forth the basis of the taxpayer's request for a hearing. The written protest and petition for hearing must be filed with the local tax administrator within forty five (45) days of receipt of the written notice of the tax determination and assessment.
    3. If a timely written notice and petition for hearing is filed, the local tax administrator shall fix the time and place for hearing and shall give written notice to the taxpayer. The hearing shall be scheduled for a date within fourteen (14) days of receipt of the written protest and petition for hearing, unless the taxpayer requests a later date convenient to all parties.
    4. If a written protest and petition for hearing is not filed within the forty five (45) day period, the tax determination, audit or assessment shall become a final bill due and owing without further notice.
    5. Upon the showing of reasonable cause by the taxpayer and the full payment of the contested tax liability along with interest accrued as of the due date of the tax, the local tax administrator may reopen or extend the time for filing a written protest and petition for hearing. In no event shall the time for filing a written protest and petition for hearing be reopened or extended for more than ninety (90) days after the expiration of the forty five (45) day period.

- J. Hearing:
1. Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing under subsection I of this section, the local tax administrator shall conduct a hearing regarding any appeal.
  2. No continuances shall be granted except in cases where a continuance is preparation shall not be grounds for a continuance. Any continuance granted shall not exceed fourteen (14) days.
  3. At the hearing the local tax administrator shall preside and shall bear testimony and accept any evidence relevant to the tax determination, audit or assessment. The strict rules of evidence applicable to judicial proceedings shall not apply.
  4. At the conclusion of the hearing, the local tax administrator shall make a written determination on the basis of the evidence presented at the hearing. The taxpayer or tax collector shall be provided with a copy of the written decision.
- K. Interest and Penalties: In the event a determination has been made that a tax is due and owing, through audit, assessment or other bill sent, the tax must be paid within the time frame otherwise indicated.
1. Interest: The village hereby provides for the amount of interest to be assessed on a late payment, underpayment, or nonpayment of the tax, to be nine percent (9.0%) per annum, based on a year of three hundred sixty five (365) days and the number of days elapsed.
  2. Late Filing And Payment Penalties: If a tax return is not filed within the time and manner provided by the controlling tax ordinance, a late filing penalty of five percent (5%) of the amount of tax required to be shown due on a return shall be imposed, and a late payment penalty of five percent (5%) of the tax due shall be imposed. If no return is filed within the time or manner provided by the controlling tax ordinance and prior to the Village issuing a notice of tax delinquency or notice of tax liability, then a failure to file penalty shall be assessed equal to twenty percent (20%) of the total tax due for the applicable reporting period for which the return was required to be filed. A late filing or payment penalty shall not apply if a failure to file penalty is imposed by the controlling ordinance.
- L. Abatement: The local tax administrator shall have the authority to waive or abate any late filing penalty, late payment penalty or failure to file penalty if the local tax administrator shall determine reasonable cause exists for delay or failure to make a filing.
- M. Installment Contracts: The village may enter into an installment contract with the taxpayer for the payment of taxes under the controlling tax ordinance. The local tax administrator may not cancel any installment contract so entered unless the taxpayer fails to pay any amount due and owing. Upon written notice by the local tax administrator that the payment is thirty (30) days delinquent, the taxpayer shall

have fourteen (14) working days to cure any delinquency. If the taxpayer fails to cure the delinquency within the fourteen (14) day period or fails to demonstrate good faith in restructuring the installment contract with the local administrator, the installment contract shall be canceled without further notice to the taxpayer.

- N. Statute of Limitations: The Village, through the local tax administrator, shall review all tax returns owing in a prompt and timely manner and inform taxpayers of any amounts due and owing. The taxpayer shall have forty five (45) days after receiving notice of the reviewed tax returns to make any request for refund or provide any tax still due and owing.
1. No determination of tax due and owing may be issued more than two (2) years after the end of the calendar year for which the return for the applicable period was filed or for the calendar year in which the return for the applicable period was due, whichever occurs later.
  2. If any tax return is not filed or if during any four (4) year period for which a notice of tax determination or assessment may be issued by the Village, the tax paid was less than seventy five percent (75%) of the tax due, the statute of limitations shall be six (6) years maximum after the end of the calendar year in which return for the applicable period was due or end of the calendar year in which the return for the applicable period was filed.
  3. No statute of limitations shall apply if a fraudulent tax return was filed by the taxpayer.
- O. Voluntary Disclosure: For any locally imposed and administered tax for which a taxpayer has not received a written notice of an audit, investigation, or assessment from the local tax administrator, a taxpayer is entitled to file an application with the local tax administrator for a voluntary disclosure of the tax due. A taxpayer filing a voluntary disclosure application must agree to pay the amount of tax due, along with interest of one percent (1%) per month, for all periods prior to the filing of the application but not more than four (4) years before the date of filing the application. A taxpayer filing a valid voluntary disclosure application may not be liable for any additional tax, interest or penalty for any period before the date the application was filed. However, if the taxpayer incorrectly determined and underpaid the amount of tax due, the taxpayer is liable for the underpaid tax along with applicable interest on the underpaid tax, unless the underpayment was the result of fraud on the part of the taxpayer, in which case the application shall be deemed invalid and void. The payment of tax and interest must be made by no later than ninety (90) days after the filing of the voluntary disclosure application or the date agreed to by the local tax administrator. However, any additional amounts owed as a result of an underpayment of tax and interest previously paid under this section must be paid within ninety (90) days after a final determination and the exhaustion of all appeals of the additional amount owed or the date agreed to by the local tax administrator, whichever is longer.
- P. Publication of Tax Ordinances: Any locally administered tax ordinance shall be published via normal or standard publishing requirements. The posting of a tax ordinance on the Internet shall satisfy the publication requirements. Copies of all tax ordinances shall be made available to the public upon request at the Village clerk's office.

- O. Internal Review Procedure: The local tax administrator shall establish an internal review procedure regarding any liens against any taxpayers for unpaid taxes. Upon a determination by the local tax administrator that the lien is valid, the lien shall remain in full force and effect. If the lien is determined to be improper, the local tax administrator shall:
1. Timely remove the lien at the Village's expense;
  2. Correct the taxpayer's credit record; and
  3. Correct any public disclosure of the improperly imposed lien.
- R. Application: This section shall be liberally construed and administered to supplement all of the Village's tax ordinances. To the extent that any tax ordinance is in conflict with or inconsistent with this section, this section shall be controlling.

Approved 3/22/12; Revised 5/8/14, 10/27/16, 8/22/2019

## CHAPTER 2

### LIQUOR CONTROL REGULATIONS

*On October 27, 2016 the Village Board adopted Ordinance 1543-16 imposing a temporary moratorium through October 31, 2017 “on the issuance of additional liquor licenses of any class with regard to businesses which involve the sale of food where less than a fully operational kitchen on premises is used to cook the food.”*

*On March 12, 2020, the Village Board adopted Ordinance 1607-20 imposing a temporary moratorium through March 11, 2021, “on the issuance of additional video gaming licenses or operations within the Village beyond the Existing and Approved Licensees.”*

#### **3-2-1 PURPOSE**

To the end that the health, safety and welfare of the people of the Village shall be protected and temperance in the consumption of alcoholic liquors shall be fostered and promoted, the following has been adopted by the mayor and board of trustees of the Village.

#### **3-2-2 DEFINITIONS**

**ALCOHOLIC LIQUOR:** Alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer, and capable of being consumed as a beverage by a human being, or as otherwise defined by the Illinois Liquor Control Act.

**ASSISTANT COMMISSIONER:** An assistant liquor control commissioner for the Village of Island Lake.

**CABARET:** An establishment providing live entertainment.

**CATERER/BANQUET RETAILER:** A person or business that serves alcoholic liquor for consumption on or off site of the licensed premises, as an incidental part of food service, sold at a package price as agreed upon by contract.

**CLUB:** A corporation organized under the laws of this state, not for pecuniary profit; solely for the promotion of some common object other than the sale or consumption of alcoholic liquors; kept, used and maintained by its members through the payment of annual dues, and owning, hiring or leasing a building or space in a building, of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests. A club shall be provided with suitable and adequate kitchen and dining room space and equipment and maintaining a sufficient number of servants and employees for cooking, preparing and serving food and meals for its members and their guests. Such club shall file with the commissioner at the time of its application for a license under this chapter, two (2) copies of a list of names and residences of its members and similarly file within ten (10) days of the election of any additional member, his name and address. Its affairs and management shall be conducted by a board of directors, executive committee or similar body chosen by the members at their annual meeting and no member or any officer, agent or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation, any profits from the distribution or sale of alcoholic liquor to the club or the members of the club or its guests introduced by members beyond the Village of Island Lake Code, Title 3

amount of such salary as may be fixed or voted at any annual meeting by the members or by its board of directors or other governing body out of the general revenue of the club.

COMMISSION: The Island Lake Liquor Control Commission.

COMMISSIONER: Liquor Control Commissioner.

ENTERTAINMENT: Live entertainment provided by a retailer for the public, such as bands, orchestras, dancing, etc.

HOTEL AND MOTEL: Every building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential. Ten (10) or more rooms shall be used for the sleeping accommodations of such guests and it shall have one or more public dining rooms where meals are served to such guests, such sleeping accommodations and dining rooms being conducted in the same building or buildings in connection therewith and such building or buildings, structure or structures being provided with adequate and sanitary kitchen and dining room equipment and capacity.

ILLINOIS LIQUOR CONTROL ACT: This Act shall mean and refer to "An Act Relating to Alcoholic Liquors", approved January 31, 1932, as amended.

PERSON: Any natural person, firm, partnership, association or corporation.

RESTAURANT: Any public place kept, used, maintained, advertised and held out to the public as a place where meals are served, and where meals are actually and regularly served, without sleeping accommodations. Such place shall be provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests.

RETAIL SALE: The sale for use or consumption and not for resale.

RETAILER: A person who sells or offers for sale alcoholic liquor for use or consumption and not for resale

SALE: Any transfer, exchange or barter in any manner, or by any means whatsoever, including the transfer of alcoholic liquors by and through the transfer or negotiation of warehouse receipts or certificates, and includes and means all sales made by any person, whether principal, proprietor, agent, servant or employee. The term "sale" includes any transfer of alcoholic liquor from a foreign importer's license to an importing distributor's license even if both licenses are held by the same person.

STATE COMMISSION: The Illinois Liquor Control Commission as created in 235 ILCS 5/3-1 through 5/3-14.

### **3-2-3 LIQUOR CONTROL COMMISSION**

- A. Commissioner; Assistant Commissioners; Term of Membership: The mayor of the Village shall be the Village liquor control commissioner and shall be assisted by two (2) members who shall be appointed by the mayor with the advice and consent of the board of trustees, and who shall be designated as assistant liquor control commissioners. The assistant liquor control commissioners shall assist the liquor

control commissioner in the exercise of the powers and the performance of his duties as such commissioner. The commissioner and his assistant commissioners shall constitute the Village liquor control commission. Terms of assistant liquor control commissioners shall be one and two (2) years, respectively.

- B. Scope: When in this chapter the Village liquor control commission shall be referred to, it shall include the commissioner and any committee or other agency appointed by such liquor commission.
- C. Powers and Duties: The commissioner and the commission, in addition to the Powers and duties herein given and provided shall have all the powers and duties provided in the Illinois Liquor Control Act.
- D. Compensation: Each member of the liquor control commission shall be paid thirty dollars (\$30.00) for each regular or special meeting actually attended by the member. In addition, the secretary shall be paid thirty dollars (\$30.00) for recording the proceedings of each regular and special meeting of the liquor control commission and making copies of the proceedings available to the liquor control commission and the Village board in a timely manner.

### **3-2-4 LICENSING REGULATIONS**

- A. License Required: No person shall act as a retailer of alcoholic liquor or engage in the business of selling, offering for sale or keeping with the intention of selling for use or consumption and not for resale, alcoholic liquor in the Village, without first having obtained a retail liquor license as hereinafter provided.
- B. Classification; Fees:
  - 1. Classification and Terms: The commission shall have the power to grant liquor licenses for the selling at retail of alcoholic liquor for the period beginning on May 1 of any year and ending on April 30 of the next or succeeding year. Said license shall be paid in full prior to the issuance of the license for the given term of the license.

CLASS A LICENSE: Shall authorize the retail sale of alcoholic liquor for consumption on the premises on all days; such license being subject to the time restrictions set forth in section [3-2-5-2](#) of this chapter. The fee for the issuance or renewal of a Class A license shall be as set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code.

CLASS A1 License: Shall be issued only to a business that is a caterer/banquet-retailer and who presently holds a Class A liquor license issued by the Village. The fee for the issuance or renewal of a Class A1 license shall be as set forth in the annual fee ordinance schedule contained in Section 1-16-3 of this code.

CLASS AA LICENSE: Shall authorize the retail sale of alcoholic liquor for consumption on the premises on all days as well as the retail sale of beer and wine only for consumption off the premises on all days; such license being subject to the time restrictions set forth in section [3-2-5-2](#) of this chapter. The fee for the issuance or renewal of a class AA license shall be as set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code.

CLASS B LICENSE: Shall authorize the retail sale on the premises of alcoholic liquor for consumption off the premises on all days; such license being subject

to the time restrictions set forth in section [3-2-5-2](#) of this chapter. The fee for the issuance or renewal of a class B license shall be as set forth in the annual fee ordinance schedule contained in section 116-3 of this code.

**CLASS C LICENSE:** Shall authorize the retail sale of beer and wine only, for consumption on the premises on all days, subject to the time restrictions set forth in section [3-2-5-2](#) of this chapter. The fee for the issuance or renewal of a class c license shall be as set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code.

**SPECIAL EVENT (CLASS SE) LICENSE:** Permits the retail sale of beer and wine by any nonprofit organization, governmental unit or for another similar fundraising event located within the Village, including but not limited to a church, governmental unit, order or lodge, veterans' organization, civic organization or other similar organization at any picnic, festival, carnival, club or similar function sponsored by such organization or fundraising event. The permit fee shall be payable upon issuance of the special event license. The fee for the issuance or renewal of a class B license shall be as set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code. The following restrictions are applicable to special event licenses:

- a. No more than four (4) special event licenses shall be issued to any one such organization or club during a one year period. An event shall be limited to no more than four (4) consecutive days.
  - b. All sales and consumption pursuant to the special event license shall be conducted only during the hours specified on the license.
  - c. Unless specifically provided otherwise, all requirements of this chapter including, but not limited to, a policy of insurance, shall apply to special event licenses granted under this chapter.
  - d. If the applicant does not own the premises from which the sale of liquor is intended to be made, a statement in writing executed and acknowledged by the owner of the premises shall be provided to the Liquor Commissioner stating that the applicant has permission to occupy the premises at the dates and times of and for the purposes set forth in the application.
2. **Proration of Fees:** If a new application for a liquor license is made during the last six (6) months of any license year, the license fee shall be one-half ( $\frac{1}{2}$ ) of the entire fee.
  3. **Application Fee:** In addition to the license fee, each applicant for a license shall submit at the time of application a nonrefundable application fee in the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code. In the event that the liquor commissioner determines that more than one individual with respect to each applicant requires a background check, there shall be an additional administrative fee in the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code for each such individual. If any application for a liquor license is denied, and the applicant reapplies for such license during the same license year, there shall be a reapplication fee in the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code plus an additional fee in the amount set forth in the annual fee ordinance

Village of Island Lake Code, Title 3, Business Regulations  
schedule contained in section 1-16-3 of this code for each additional person  
(over 1) for whom the liquor commissioner requires a background check.

No application or reapplication shall be processed until such time as the  
aforesaid fees have been paid.

C. License Limitations; Expiration:

1. A license shall be purely a personal privilege and shall expire on April 30 next following the date of issuance, unless sooner revoked as provided in this chapter.
2. A license shall not constitute property, nor shall it be subject to attachment, garnishment or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. Such license shall not descend by the laws of the testate or intestate devolution, but it shall cease upon the death of the licensee; provided, that executors or administrators of the estate of any deceased licensee, when such estate consists in part of alcoholic liquor, may continue the business of the sale or manufacture of alcoholic liquor under order of the appropriate court, and may exercise the privileges of the deceased or insolvent or bankrupt licensee after the death of such decedent, or such insolvency or bankruptcy, until the expiration of such license, but not longer than six (6) months after the death, bankruptcy or insolvency of such licensee.

D. Issuance Procedure; Applications:

1. An applicant for an original license shall submit to the commissioner an application which shall become a permanent record of the commission and under oath shall state the following:
  - a. The name, age and address of the applicant in the case of an individual; in case of a co-partnership, the persons entitled to share in the profits thereof; in case of a club or nonprofit corporation, the date of incorporation, the objects for which it was organized and the names and addresses of the officers and directors; and, in the case of a corporation for profit, the registered agent within Illinois, and at least two (2) of the directors.
  - b. The citizenship of the applicant, his place of birth and if a naturalized citizen, the time and place of his naturalization.
  - c. The character of business of the applicant, and in case of a corporation, the objects for which it is formed.
  - d. The length of time that said applicant has been in business of that character, or in the case of a corporation, the date on which its charter was issued.
  - e. The amount of goods, wares and merchandise on hand at the time application is made.
  - f. The location and description of the premises or place of business which is to be operated under such license.

- g. Whether the applicant has made similar applications for a similar other license on premises other than described in this application, and the disposition of such application.
  - h. That applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in this chapter or the Illinois liquor control act.
  - i. Whether a previous license by any state or subdivision thereof or by the federal government has been revoked and the reasons therefor.
  - j. That he will not violate any of the laws of the state or of the United States in the conduct of his place of business.
  - k. That he has not received or borrowed money or anything else of value, and that he will not receive or borrow money or anything of value (other than merchandising credit in the ordinary course of business for a period not to exceed 90 days, as expressly permitted by statute<sup>4</sup>) directly or indirectly from any manufacturer, importing distributor, or distributor, nor be a party in any way, directly or indirectly, to any violation by a manufacturer, importing distributor or distributors, as provided in the Illinois liquor control act.
2. At the time of the application for license, the applicant shall submit certifications from the Lake or McHenry County health departments and the building and zoning department of Island Lake that the proposed licensed premises are in conformity with all of the regulations and ordinances of said departments.
  3. New applicants for a liquor license and managers, if any, shall be fingerprinted by the Village police department. All officers of a corporation making an original application for a license shall also be fingerprinted. New applicants shall obtain an affidavit signed by the chief of police, stating that the applicant has been fingerprinted according to, and has complied with the provisions of this chapter. Such affidavit shall be filed with the local liquor control commission.
  4. Liquor licenses will not be issued prior to clearance of applicant by applicable law enforcement agencies.
  5. All managers are required to successfully complete the State of Illinois B.A.S.S.E.T. certified alcohol awareness program. In addition, each licensed establishment must have a B.A.S.S.E.T. trained employee on the premises at all times that alcoholic beverages are being served. Certificates of completion need to be filed with the Village clerk's office.
- E. Number of Licenses Issued:
1. There shall be issued not more than a total of four (4) liquor licenses of Class A.
  2. There shall be issued not more than a total of six (6) liquor licenses of Class B.
  3. There shall be issued not more than a total of zero (0) liquor license of Class C.
  4. There shall be issued not more than a total of two (2) liquor license of Class AA.
  5. There shall be issued not more than a total one (1) liquor License of Class A(1).

- F. Records of Licenses Issued: The commissioner shall keep or cause to be kept a record of all licenses issued.
- G. Persons Ineligible to Receive Licenses: Persons ineligible for licensing under this chapter shall include anyone who:
1. Is not of good reputation and character in the community in which he resides.
  2. Has been convicted of being the keeper of or is keeping a house of ill fame.
  3. Has been convicted of a felony under any federal or state law.
  4. Has been convicted of pandering or other crime or misdemeanor opposed to decency and morality.
  5. Whose license issued under this chapter has been revoked for cause.
  6. At the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application.
  7. Whose place of business is conducted by a manager or agent unless said manager or agent possesses the same qualifications required of the licensee.
  8. Does not beneficially own the premises for which a license is sought or does not have a lease thereon for the full period for which the license is to be issued. If the applicant presents a sublease for certain premises, a signed affidavit from the lessor of said premises approving the sublease must accompany the application.
  9. Is not a beneficial owner of the business to be operated by the licensee.
  10. Has been convicted of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor, subsequent to the passage of this chapter or shall have forfeited his bond to appear in court to answer to the charges for any such violation.
  11. A co-partnership, unless each of the partners is qualified to obtain a license.
  12. A corporation, if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than five percent (5%) of the stock of such corporation would not be eligible to receive a license hereunder for any reason other than citizenship and residence within the political subdivision.
  13. No law-enforcing public official, mayor, or member of the board of trustees shall be interested in any way, either directly or indirectly, in the manufacture, sale or distribution of alcoholic liquor.
  14. Is not eligible for a State retail liquor dealer's license.
  15. Is indebted for any delinquent real estate or personal property taxes, license fee, debt or other obligation to the Village.

16. The purchase of a premises upon which alcoholic liquors are sold at retail, unless the seller of said premises has satisfied all debts to the Village for any delinquent real estate or personal property taxes, license fee or any other financial obligation.

H. License Form; Location; Display:

1. Form: All licenses issued by the Commission shall state thereon the name of the licensee, the address and description of the premises and of the building for which the license is granted, and the date of its issuance and expiration.
2. Location Restriction: Only one building and location or premises shall be described in a liquor license issued thereunder, and said liquor license shall apply only to the building and to the premises described in the liquor
3. Display: Each licensee shall cause his license issued under the provisions of this chapter to be framed and hung in plain view in a conspicuous place in the licensed premises.

I. Renewal:

1. Any licensee may renew his license at the expiration of the license, provided the licensee is then qualified to receive a license and the premises for which such renewal license is sought are suitable for such purpose. The renewal privilege herein provided for shall not be construed as a vested right which shall in any case prevent the Commissioner from decreasing the number of licenses to be issued within the Village.
2. All applications for renewal of a liquor license from the Village shall be made on a renewal form provided by the Commission and shall be accompanied by the fee as provided herein<sup>6</sup>.
3. Any license issued to a corporation for profit shall terminate upon transfer of ownership from one individual or individuals to another of more than thirty percent (30%) of the corporate stock. Any application for renewal of the license in the corporation's name subsequent to transfer of the ownership of more than thirty percent (30%) of the corporate stock shall be considered and treated as a new application.
4. Whenever a non-corporate licensee under this chapter forms a corporation to operate in lieu of said licensee, a new application and fee is required even when the shareholder or shareholders of said corporation and the licensee or licensees are one and the same person.
5. Failure to apply for a renewal of a liquor license and to accompany such renewal application with the appropriate fee by the expiration date of the present valid liquor license may be considered by the Commission as a decision not to renew such license.

- J. Restaurant and Club Licenses: No person shall receive a license to sell alcoholic liquor under any premises as a restaurant or as a club unless it has the qualifications respectively described in the definitions of "club" and "hotel and motel" in section [3-2-2](#) of this chapter.

**3-2-5 SALES REGULATIONS**

A. Generally:

1. Age Restriction; Prohibited Sales:

- a. No licensee or any officer, associate, member, representative, agent or employee of such licensee shall sell, give or deliver alcoholic liquor to any person under the age of twenty one (21) years or to any intoxicated person. No person, after purchasing or otherwise obtaining alcoholic liquor, shall give, sell or deliver such alcoholic liquor to another person under the age of twenty one (21) years except in the performance of a religious ceremony or service.
  - b. If a licensee or his agents or employees believe or have reason to believe that a sale or delivery of any alcoholic liquor is prohibited because of the nonage of the prospective recipient, he shall, before making such sale or delivery, demand presentation of some form of positive identification, containing proof of age, issued by a public officer in the performance of his official duties.
2. Possession and Consumption: No person shall accept delivery or have possession of alcoholic liquor in violation of this chapter. Consumption of alcoholic liquor by a person under twenty one (21) years of age is forbidden, except as provided otherwise in subsection C.
  3. Exceptions: The possession and dispensing or consumption by a minor of alcoholic liquor in the performance of a religious service or ceremony, or the consumption by a minor under the direct supervision and approval of his parents or parent of such minor in the privacy of a home, is not prohibited by this section.
- B. Opening and Closing Hours: The following hours are established for the various class liquor licenses:

CLASS A No alcoholic liquor shall be sold or furnished at retail or furnished for consumption in the Village between the hours of two o'clock (2:00) A.M. and nine o'clock (9:00) A.M. on Monday, Tuesday, Wednesday, Thursday, Friday, Saturday and Sunday. It shall be unlawful to keep open for business or to admit the public to any premises in or upon which alcoholic liquor is sold at retail or for consumption during the hours within which the sale or consumption of such alcoholic liquor is prohibited.

CLASS AA No alcoholic liquor shall be sold or furnished at retail or furnished for consumption in the Village between the hours of two o'clock (2:00) A.M. and nine o'clock (9:00) A.M. on Monday, Tuesday, Wednesday, Thursday and Friday; and between the hours of three o'clock (3:00) A.M. and nine o'clock (9:00) A.M. on Saturday and Sunday, as well as on Thanksgiving Day, New Year's Day and on any other recognized legal holiday approved in writing by the liquor commissioner. It shall be unlawful to keep open for business or to admit the public to any premises in or upon which alcoholic liquor is sold at retail or for consumption during the hours within which the sale or consumption of such alcoholic liquor is prohibited.

CLASS B No alcoholic liquor shall be sold or furnished at retail in the Village between the hours of two o'clock (2:00) A.M. and seven o'clock (7:00) A.M. on Monday, Tuesday, Wednesday, Thursday, Friday, Saturday and Sunday.

CLASS C No beer or wine shall be sold or furnished at retail in the Village between the hours of twelve o'clock (12:00) midnight and nine o'clock (9:00) A.M. on any day.

- C. Retail Sales And Restrictions: No license shall be issued for the sale at retail of any alcoholic liquor within one hundred feet (100') of: any church, school, hospital; home for the aged, indigent persons, for veterans, their wives and children; military or navy stations; provided, that this prohibition shall not apply to hotels offering restaurant service, regularly

organized clubs or to restaurant food shops or other places where the sale of alcoholic liquors is not the principal business carried on, if such place of business so exempted shall have been established for such purposes prior to the taking effect of this chapter.

- D. Government Buildings: Subject to the other provisions of this Chapter, alcoholic beverages may be delivered, sold, consumed, poured and served in buildings belonging to or under control of the Village at any of the following locations: Village Hall, 3720 Greenleaf Avenue; Water Tower Park, 429 West State Road; Veteran's Park, 432 West State Road; and Converse Park, 551 East State Road. Any such delivery, sale, consumption, pouring or service shall be in the sole discretion of the Liquor Commissioner and subject to such additional conditions and restrictions as the Liquor Commissioner may deem appropriate.

### **3-2-6 LICENSED PREMISES**

- A. Unobstructed View into Premises:

1. View into Premises:

- a. On premises licensed for the sale and consumption of alcoholic liquor (other than as a restaurant, hotel, club or any bowling establishment), no screen, blind, curtain, partition, article or thing shall be permitted in the windows or upon the doors of such licensed premises nor inside such premises, which shall prevent a clear view into the interior of such licensed premises from the street, road or sidewalk at all times.
- b. No booth, screen, partition or other obstruction nor any arrangement of lights or lighting shall prevent a full view of the entire interior of such premises from the street, road or sidewalk and said premises must be located so that there shall be a full view of the entire interior of such premises from the street, road or sidewalk.
- c. All rooms where liquor is sold for consumption upon the premises shall be continuously lighted during business hours by natural light or artificial white light so that all parts of the interior of the premises shall be clearly visible.
- d. In case the view into any such licensed premises required by the foregoing provision is willfully obscured by the licensee or by him willfully suffered to be obscured or in any manner obstructed, then such license shall be subject to revocation or suspension in the manner herein provided.
- e. To the extent that the rules and regulations governing the Video Gaming Act, including but not limited to the provisions of the Illinois Administrative Code Title 11, Chapter 1, Section 1800.810) (requiring restricted visibility for video gaming locations from areas outside of the business) provide that video gaming areas must have restricted visibility from outside the business, then these licensed premises should comply with this Section to the maximum extent possible in a manner consistent with the video gaming regulations and the public health safety and welfare.

2. Enforcement: In order to enforce the provisions of this section, the commission shall have the right to require the filing with it of plans, drawings and photographs showing the clearness of the view as herein required.

- B. Access From Premises To Dwelling Areas: Except in the case of hotels and clubs, no alcoholic liquor shall be sold at retail upon any premises which has any access which leads from such premises to any other portion of the same building or structure used for dwelling or lodging purpose and which is permitted to be used or kept accessible for use by the

public. This provision shall not prevent any connection between such premises which is used by the licensee, his family and personal guests.

- C. Sanitary and Safety Conditions: Licensed premises shall comply with all applicable health department regulations.

**3-2-7 PROHIBITED CONDUCT, ACTS**

- A. Prohibited Conduct: The following kinds of conduct on premises in the Village of Island Lake licensed to sell alcoholic liquor are prohibited:

1. The performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
2. The actual or simulated touching, caressing or fondling of the breasts, buttocks, anus or genitals, directly or through clothing.
3. The actual or simulated displaying of the breasts, buttocks, pubic hair, anus, vulva or genitals.
4. The permitting by a licensee of any person to remain in or upon the licensed premises who exposes to public view any portion of his or her breasts, buttocks, pubic hair, anus, vulva or genitals.
5. The displaying of films or pictures depicting acts, a live performance of which would be prohibited by the regulations herein.
6. Serving liquor while the server is under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof. The standard for determination whether a person is under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof shall be as set forth in 625 ILCS5/11-501 (excluding the element of driving).

It shall be unlawful for any of the foregoing prohibited conduct to occur on any licensed premises and shall constitute a violation of any liquor licenses issued hereunder and subject the same to suspension or revocation.

- B. Disorderly Conduct: No licensee under this chapter shall permit any disorderly conduct or disturbance of the peace on the licensed premises.
- C. Furnishing Alcoholic Liquors to Prisoners: No person shall furnish or suffer to be furnished any alcoholic liquors to any prisoner confined in jail, except on a physician's prescription for medicinal purposes.

**3-2-8 SOCIAL HOSTING**

- A. Definitions.

ALCOHOL: Ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin, or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.

ALCOHOLIC BEVERAGE: Alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, beer, and which contains one-half of one

percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

**CONVEYANCE:** Any vehicle, trailer, watercraft or container operated for the transportation of persons or property.

**EVENT or GATHERING:** Any group of three or more persons who have assembled or gathered together for a social occasion or other activity.

**HOST:** To aid, conduct, allow, entertain, organize, supervise, control, or permit an Event or Gathering.

**ILLICIT DRUGS:** Any drug, substance, or compound prohibited by law, including drugs prescribed by a physician that are in the possession of or used by someone other than the person to whom the drug was prescribed.

**PARENT:** Any person having legal custody of a juvenile:

1. As a natural, adoptive parent, or step-parent;
2. As a legal guardian; or
3. As a person to whom legal custody has been given by order of the court.

**PERSON:** Any individual, firm, association, partnership, corporation, trust or any other legal entity.

**PUBLIC PLACE:** any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, parks, businesses or parking lots.

**REASONABLE STEPS:** controlling access to alcoholic beverages at the Event or Gathering; controlling the quantity of Alcoholic Beverages present at the Event or Gathering; verifying the age of persons attending the Event or Gathering by inspecting drivers licenses or other government-issued identification cards to ensure that minors do not consume Alcoholic Beverages while at the Event or Gathering; and supervising the activities of minors at the Event or Gathering, calling for police assistance in the event people under 21 are in possession of Alcohol at the Event or Gathering or advising law enforcement in advance of departing one's residence that the owner will be away and no Underage Person is authorized to be present and consume alcohol at the owner's residence.

**RELIGIOUS CEREMONY:** the possession, consumption and dispensation of Alcohol or an Alcoholic Beverage for the purpose of conducting any bona fide rite or religious ceremony.

**RESIDENCE or PREMISES:** Any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park, or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation.

**UNDERAGE PERSON:** Any individual less than 21 years of age.

**B. Certain Events and Gatherings Prohibited.**

1. It is unlawful for any Person to host, permit, allow, or fail to take Reasonable Steps to prevent an Event or Gathering at any Residence or Premises, or on any other property whether private or public, or in any Conveyance, over which that Person has control or

a reasonable opportunity for control where Illicit Drugs or Alcoholic Beverages are present when that Person knows or reasonably should know that an Underage Person will or does consume or possess any Illicit Drugs or Alcoholic Beverage.

2. It also is unlawful for any Person to fail to take Reasonable Steps to prevent possession or consumption of Illicit Drugs or Alcoholic Beverages by an Underage Person at any such Event or Gathering. A person who hosts an Event or Gathering does not have to be present at the Event or Gathering to be in violation of this section B.

C. Other Responsible Persons.

1. A Person is responsible for violating subsection B of this section if that Person intentionally aids, advises, hires, counsels, conspires with, or solicits another Person to commit a violation of subsection B.
2. A Person is responsible for violating subsection B of this section if that Person knows or should have known about the committing of a prohibited act and failed to take Reasonable Steps to prevent the prohibited act. D.Exceptions.

1. A Person who hosts an Event or Gathering shall not be in violation of this chapter if he or she undertakes one of the following steps before any other Person makes a complaint about the Event or Gathering:

- a. seeks assistance from the Island Lake Police Department or other law enforcement agency to remove any person who refuses to abide by the host's performance of the duties imposed by this chapter, or
- b. terminates the Event or Gathering because the host has been unable to prevent Underage Persons from consuming Illicit Drugs or Alcoholic Beverages despite having taken all Reasonable Steps to do so.

2. This section does not apply to conduct involving the use of Alcoholic Beverages that occurs at a Religious Ceremony or that is exclusively between an Underage Person and his or her Parent, as permitted by Illinois State Law.

- E. Fines; Penalties. Any Person who violates or assists in the violations of any provision of this section shall be deemed to have committed a petty offense and shall be subject to a fine in the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code. Each day on which, or during which, a violation occurs shall constitute a separate offense.

### **3-2-9 VIOLATIONS; HEARINGS; APPEALS**

- A. License Violation, Hearing: A complaint may be filed with the commission alleging that any retailer licensee, subject to the jurisdiction of the commission, has been or is violating the provisions of this chapter. Such complaint shall be signed and sworn to by the party or parties complaining. The complaint shall state the particular provision, rule or regulation believed to have been violated and the facts in detail upon which such belief is based. If the commission is satisfied that the complaint substantially charges a violation and that from the facts alleged there is reasonable cause for such belief, it shall set the matter for hearing in accordance with these regulations and shall serve a copy of the complaint and notice upon the licensee of the time and place of such hearing. Such notice shall be served within three (3) days of the hearing.

B. Citations, Procedure before Commission:

1. The commission shall have the right to proceed originally by citation and notice of hearing to require any licensee of said commission to appear at a time and place specified in said notice and to show cause why the local liquor license issued to said licensee by the commission should not be suspended or revoked for violations of the provisions of this chapter or the Illinois liquor control act or the rules or regulations issued pursuant thereto.
2. All such original proceedings shall be instituted by citation in writing; shall state the particular provision, rule or regulation alleged to have been violated and the facts in detail upon which such allegation is based; and shall be signed by the commissioner or his assistant commissioners.
3. The licensee against whom the citation has been filed shall be entitled to be served with a copy of the citation and shall be given notice of the time and place set for the hearing of said citation. Said citation and notice of hearing shall be served on the licensee named therein, not less than three (3) days prior to the date specified in said notice of hearing. The licensee named in the citation and notice of hearing shall appear at the time and place designated in said citation and notice of hearing.

C. Revocation, Suspension; Hearing:

1. The commissioner may revoke or suspend for not more than thirty (30) days, any license issued by him if he determines that the licensee has violated any of the provisions of this chapter, any applicable rule or regulation established by the commissioner or the state commission or any provision of the Illinois liquor control act. However, no such license shall be so revoked or suspended except after a public hearing by the commissioner with three (3) days' written notice to the licensee affording the licensee an opportunity to appear and defend. If the commissioner has reason to believe that the continued operation of a particular licensed premises will immediately threaten the welfare of the community, he may, upon the issuance of a written order stating the reason for such conclusion and without notice or hearing, order the licensed premises closed for not more than seven (7) days, giving the licensee an opportunity to be heard during the period. If such licensee shall also be engaged in the conduct of another business or businesses on the licensed premises, such order shall not be applicable to such other business or businesses.
2. The commissioner shall, within five (5) days after such hearing, if he determines that the license should be revoked or suspended, state the reason or reasons for such determination in a written order of revocation or suspension and shall serve a copy of such order upon the licensee within the five (5) days.

D. Continuance of Hearing, Procedure:

1. A request for a continuance of any hearing in any matter before the commission will not be allowed by the commission unless for a good and valid reason and unless made at least five (5) days prior to the date set for the hearing.
2. The commission may, in its discretion, grant a continuance if extenuating and unusual circumstances are presented in support of the request for continuance.

E. Commissioner's Report:

1. The commissioner shall report in writing to the Illinois liquor control commission within ten (10) days after any hearing has been held before such commissioner for a violation by any retail alcoholic liquor licensee of any state law or any provision of this chapter, or any rule or regulation established by the commission.
2. The report from the commissioner shall specify the time and place where the hearing was held, whether a suspension or revocation was entered therein, or what other disposition was made or entered in such commissioner's records.

F. Appeals

1. Upon Suspension Or Revocation: After the receipt of an order of suspension or revocation, a licensee shall have the privilege, within a period of twenty (20) days, of appealing the order to the state commission for a decision sustaining, reversing or modifying the order of the commissioner. If the state commission affirms the commissioner's order to suspend or revoke the license at the first hearing, the appellant shall cease to engage in the business for which the license was issued, until the commissioner's order is terminated by its own provisions or reversed upon rehearing or by the courts.
2. Any Order Or Action: Any order or action of a commissioner granting or refusing a license, revoking or suspending or refusing to revoke or suspend a license or refusing for more than thirty (30) days to grant a hearing upon a complaint to revoke or suspend a license may, within twenty (20) days after notice of such order or action, be appealed from by any resident of the political subdivision under the jurisdiction of the commissioner or any person interested, to the state commission.

**3-2-10**

**PENALTY**

Except as may otherwise be provided herein, whoever violates any provisions of this chapter shall be subject to a penalty in the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code. For repeated violations, each occurrence shall be deemed a separate offense. For continuing violations, each day said violation occurs shall be deemed a separate offense.

## CHAPTER 3

### SEXUALLY ORIENTED BUSINESS LICENSING

#### 3-3-1 PURPOSE AND FINDINGS

- A. Title: This chapter shall be known as and may be cited as the *ISLAND LAKE SEXUALLY ORIENTED BUSINESS LICENSING ORDINANCE*, and is also referred to herein as this chapter.
- B. Purpose: The purpose of this chapter is to establish reasonable and uniform regulations to minimize and control the negative secondary effects of sexually oriented businesses within the municipality in order to promote the health, safety, and welfare of the citizens of the municipality. The provisions of this chapter have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials or communication, including sexually oriented entertainment. Similarly, it is not the purpose nor effect of this chapter to restrict or deny access by adults to sexually oriented entertainment protected by the first amendment, or to deny access by distributors and exhibitors of sexually oriented entertainment to their intended market. Furthermore, it is not the intent or effect of this chapter to condone or legitimize the distribution or exhibition of entertainment that is obscene.
- C. Findings: Based on evidence concerning the adverse secondary effects of sexually oriented businesses presented to the municipality from findings incorporated in the cases of City of Erie v. Pap's A.M., 529 U.S. 277, 120 S.Ct. 1382 (2000); Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991); City of Renton v. Playtime Theaters, Inc., 475 U.S. 41 (1986); Young v. American Mini Theaters, 426 U.S. 50 (1976), Berg v. Health and Hospital Corporation, 865 F.2d 797 (7th Cir. 1989); Ellwest Stereo Theaters v. Wenner, 681 F.2d 1243 (9th Cir. 1982); Bamon Corp. v. City of Dayton, 730 F.Supp 80 (S.D. Ohio, 1990); and EWAP Inc. v. City of Los Angeles, 97 Cal. App. 3d 179, 158 Cal. Rptr. (1979); and on studies in other cities including the "Report Of The Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses" (Minnesota, 1989); "Memorandum Re: Adult Entertainment Ordinance", of the assistant chief of police of Tucson, Arizona (May 1, 1990); Hecht, Peter R., Ph.D., "Report To The American Center For Law And Justice On The Secondary Impacts Of Sex Oriented Businesses" (March 31, 1996); "Adult Entertainment Businesses In Indianapolis, An Analysis" (1984) and McCleary, Richard, Ph.D., and Meeker, James W., Ph.D., "Final Report To The City Of Garden Grove: The Relationship Between Crime and Adult Business Operations On Garden Grove Boulevard" (Garden Grove, California, October 23, 1991); this legislative body finds:
1. Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities.
  2. Sexual acts, including masturbation, oral sex and anal sex, occur at sexually oriented businesses, especially those which provide private or semiprivate booths or rooms for viewing films, videos, or live sexually oriented entertainment. Such activities may result in spreading communicable diseases such as syphilis, gonorrhea, and human immunodeficiency virus (HIV).
  3. Offering sexually oriented entertainment under conditions that encourage such activities creates unhealthy conditions.

4. Sanitary conditions in some sexually oriented businesses are unhealthy, in part because of the failure of owners and operators to regulate those activities and maintain their facilities.
5. Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view sexually oriented films concealed from public view.
6. The findings noted in subsections C1 through C5 of this section raise compelling and substantial governmental concerns.
7. Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those compelling and substantial governmental concerns.
8. A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and operators of sexually oriented businesses. Further, such a licensing procedure will place a heretofore nonexistent incentive on operators to see that sexually oriented businesses are run in a manner consistent with the health, safety and welfare of patrons and employees, as well as the citizens of the municipality. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, and fully in possession and control of the premises and activities occurring therein.
9. The regulation of nudity, semi-nudity, and physical contact between employees and patrons in sexually oriented businesses will further the compelling and substantial governmental interests in preventing prostitution and other sex related crimes, including illegal sex acts, and protecting the public health, safety, and welfare.
10. Requiring open sightlines in sexually oriented businesses and requiring sufficient lighting will advance the compelling and substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in sexually oriented businesses and will facilitate enforcement of the provisions of this chapter and other federal, state and local laws, thereby furthering the compelling and substantial governmental interest in protecting the public health, safety, and welfare.
11. The disclosure of certain information by those persons ultimately responsible for the day to day operation and maintenance of sexually oriented businesses, and by employees of such businesses, will facilitate the enforcement of the provisions of this chapter and other federal, state and local laws, and will thereby further the compelling and substantial government interest in protecting the public health, safety, and welfare.
12. A person who recently has been convicted of a sexually related crime is not an appropriate individual to operate or be employed in a sexually oriented business.
13. Barring such individuals from the management of and employment in sexually oriented businesses for a period of years serves as a deterrent to and prevents the commission of sexually related criminal acts, including conduct which leads to the transmission of sexually transmitted diseases.

### **3-3-2 DEFINITIONS**

For purposes of this chapter:

**EMPLOYEE:** A natural person who performs any service or work on the premises of a sexually oriented business, including, but not limited to, providing entertainment, performing work of a management or supervisory nature, or performing support functions, on a full time, part time or

contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person on the premises exclusively for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

**EMPLOYEE STATION:** An area on the premises of a sexually oriented business designated for occupancy exclusively by one or more employees whose duties include assuring compliance with the provisions of this chapter.

**ENFORCEMENT OFFICER:** The president of the Village of Island Lake or his or her designee.

**EXCRETORY FUNCTIONS:** Urination, defecation, lactation, ejaculation and menstruation. It shall not mean urination and defecation performed in a public or employee only restroom in the manner in which those facilities are intended to be used, and when not performed or presented for a commercial purpose. It shall not mean lactation as part of breast feeding an infant, unless performed or displayed for a commercial purpose other than education and training in the art, science or technique of breast feeding an infant.

**LICENSEE:** With respect to a sexually oriented business license issued under this chapter, a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual(s) designated on the license application as principally responsible for the operation of the sexually oriented business. With respect to a sexually oriented business employee license issued under this chapter, licensee means a natural person in whose name a license has been issued authorizing employment in a sexually oriented business.

**MUNICIPALITY:** The village of Island Lake, Illinois.

**NUDITY OR NUDE:** Exposing to view specified anatomical areas or any device, costume, or covering that gives the appearance of or simulates any specified anatomical areas.

**OPERATE OR CAUSE TO BE OPERATED:** To control or hold primary responsibility for the operation of a sexually oriented business, either as a business entity, as an individual, or as part of a group of individuals with shared responsibility. It shall also mean to cause to function or to put or keep in operation. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, or licensee of the business.

**OPERATOR:** Any person who operates or causes to be operated a sexually oriented business.

**PATRON:** Any natural person who is not an employee.

**PERSON:** A natural person, proprietorship, partnership, limited liability company, firm, association, joint stock company, joint venture, corporation or combination of individuals of whatever form or character.

**SEMINUDITY OR SEMINUDE:** Exposing to view, with less than a fully opaque covering, any portion of the female breast below the top of the areola or any portion of the buttocks. This definition shall include the entire lower portion of the female breast, but shall not include any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing, provided that the areola is not exposed in whole or in part.

**SEXUALLY ORIENTED BUSINESS:** Any of the following when done in a place where the public is invited or permitted, or when done for any commercial purpose including sale and rental, regardless of who pays or receives the consideration therefor, and regardless of the form of consideration:

- A. Live exhibition or display of a natural person or people in the state of nudity or semi-nudity, or engaged in specified sexual activities or excretory functions.

- B. Engaging in, promoting or permitting a natural person or people to engage in specified sexual activities or excretory functions.
- C. Offering of physical contact in the form of wrestling or tumbling between natural persons of the opposite sex, when one or more of the persons is nude or seminude.
- D. Offering of products, services or activities by or with a natural person or people when one or more of the people, whether a patron, agent, employee or otherwise, is in a state of nudity or seminudity.
- E. Displaying or offering to others any recorded depiction of a natural person, or created image or character, as in cartoons and animation, by any medium, including, without limitation, film, videotape, closed circuit television, digital video disc (DVD), laser disc, compact disc (CD), floppy disc, photograph, slide, television, book, magazine, and computer software, which is:
  - 1. Characterized or distinguished by an emphasis on the depiction or description of specified sexual activities, excretory functions, or specified anatomical areas; or
  - 2. Advertised or otherwise held out to the public as being characterized or distinguished by an emphasis on the depiction or description of specified sexual activities, excretory functions, or specified anatomical areas, including, without limitation, the use of the term "adult" and the use of the designation of one or more "X" such as, but not limited to, "XXX".
- F. The display and offering to others of novelties, instruments, devices, or paraphernalia that are designed primarily for use in connection with specified sexual activities or that give the appearance of or simulate any of the specified anatomical areas.
- G. The term sexually oriented business shall exclude the following:
  - 1. The display and offering to others of condoms, spermicide or other nonprescription contraceptives;
  - 2. Advertised or otherwise held out to the public as being characterized or distinguished by an emphasis on the depiction or description of specified sexual activities, excretory functions, or specified anatomical areas, including, without limitation, the use of the term "adult" and the use of the designation of one or more "X" such as, but not limited to, "XXX";
  - 3. The display and offering to others of instruments, devices, or paraphernalia that are designed primarily for use in connection with specified sexual activities if they are displayed and offered to others on the premises where a pharmacist licensed by the state of Illinois is employed to dispense prescription drugs, instruments or devices;
  - 4. Breast feeding an infant, unless performed or displayed for a commercial purpose other than education and training in the art, science or technique of breast feeding an infant;
  - 5. The display and offering to others of motion pictures, by any format, which have received a rating from the Motion Picture Association of America of G, PG, PG-13, R or NC-17, when offered or displayed substantially in their entirety;
  - 6. Libraries and museums funded in whole or in part by federal, state or local governmental funds;

7. The display and offering to others of items described in this subsection G, if and only if the display and offering are done for a commercial purpose, and all of the following apply to the business displaying and offering such items to others:
- a. Less than five percent (5%) of its gross income comes from the sale, rental or exhibition of the following types of items:
    - (1) Items which are characterized or distinguished by an emphasis on the depiction or description of specified sexual activities, excretory functions, or specified anatomical areas or any combination thereof, and
    - (2) Items which are advertised or otherwise held out to the public as being characterized or distinguished by an emphasis on the depiction or description of specified sexual activities, excretory functions, or specified anatomical areas or any combination thereof, including, without limitation, the use of the term "adult" and the use of the designation of one or more "X" such as, but not limited to, "XXX"; and
  - b. Less than five percent (5%) of its display space is used for the sale, rental or exhibition of the items described in subsections G7a(1) and G7a(2) of this definition; and
  - c. Less than five percent (5%) of the items it offers to others are the items described in subsections G7a(1) and G7a(2) of this definition; and
  - d. The items described in subsections G7a(1) and G7a(2) of this definition are segregated from all other displays and retail areas of the premises by a solid partition from floor to ceiling with no openings or windows and with entrance and egress by means of a solid door posted with a sign not less than one foot by one foot (1' x 1') with the words "Under 18 Not Admitted" lettered on the sign, except that magazines characterized or distinguished by an emphasis on the depiction or description of specified sexual activities, excretory functions, or specified anatomical areas or any combination thereof may be displayed on racks or other display cases only if the magazine is encased or otherwise covered up and concealed from common view of anything other than the magazine title or text or other materials which would not be described as sexually oriented. Certain uses which fall within the definition of sexually oriented business may also constitute uses which are illegal under local, state or federal law, such as obscenity or child pornography. Even if such illegal uses constitute a sexually oriented business

**SPECIFIED ANATOMICAL AREAS:** The human genitals, pubic area, perineum, anus, anal cleft or cleavage, pubic hair, any portion of the areola of the female breast if less than fully and opaquely covered; and the male genitals in a discernibly turgid state, even if entirely covered by an opaque covering. In determining whether any of the foregoing portions of the anatomy are fully and opaquely covered, coverage by makeup, paint, or similar matter applied directly to the skin, shall not be considered to be fully and opaquely covered.

**SPECIFIED CRIMINAL ACTIVITY:**

- A. Any of the following offenses, as set forth in the Illinois criminal code of 1961, as amended, or any substantially similar offenses to those set forth below under the criminal or penal code of any local jurisdiction, state, country, or international law: indecent solicitation of a child, indecent solicitation of an adult, adultery, fornication, public indecency, sexual exploitation of a child, custodial sexual misconduct, presence within school zone by child sex offenders prohibited, sexual relations within families, bigamy, marrying a bigamist, prostitution, solicitation of a sexual act, soliciting for a prostitute, soliciting for a juvenile prostitute,

pandering, keeping a place of prostitution, keeping a place of juvenile prostitution, patronizing a prostitute, patronizing a juvenile prostitute, pimping, juvenile pimping, exploitation of a child, obscenity, child pornography, commercial film and photographic print processor - reports, harmful material, tie in sales of obscene publications to distributors, criminal sexual assault, aggravated criminal sexual assault, predatory criminal sexual assault of a child, criminal sexual abuse, aggravated criminal sexual abuse, criminal transmission of HIV, ritualized abuse of a child, female genital mutilation, violation of the sex offender registration act, stalking (if the basis of the conviction is the threat of immediate or future sexual assault, or placing a person in reasonable apprehension of immediate or future sexual assault), first degree murder (if the basis for the conviction is 720 ILCS 5/9-1(a)(3), commonly known as felony murder, where the predicate felony is any felony otherwise set forth in this definition), burglary (if the basis for the conviction is an intent to commit any felony otherwise set forth in this definition), residential burglary (if the basis for the conviction is an intent to commit any felony otherwise set forth in this definition), armed violence (if the basis for the conviction is an intent to commit any felony otherwise set forth in this definition), attempt to commit any of the foregoing crimes, conspiracy to commit any of the foregoing crimes, and any other felony or misdemeanor for which an element of the offense is the commission of any of the foregoing crimes or an intent to commit any of the foregoing crimes.

- B. For which: 1) less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor, business offense or petty offense; or 2) less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense.
- C. The fact that a conviction is being appealed shall not prevent such conviction from constituting a specified criminal activity as defined herein.

SPECIFIED SEXUAL ACTIVITIES: Any of the following, whether actual or simulated:

- A. The fondling or other erotic touching of human genitals, pubic area, perineum, anus, anal cleft or cleavage, pubic hair, buttocks, or female breasts, regardless of whether the performer or recipient is clothed, in a state of nudity or in a state of seminudity;
- B. The manipulation of the human body of another, including massage, by the use of any portion of manipulator's body, whether covered or uncovered, or by any device, if the person performing the manipulation or the person receiving the manipulation is in a state of nudity or semi-nudity;
- C. Sex acts, normal or perverted, heterosexual, homosexual or bisexual, including, without limitation, intercourse, fellatio, cunnilingus, anilingus, masturbation, bestiality, sodomy, bondage and discipline, sadism and masochism, and any other act intended to cause sexual arousal;
- D. Sex acts between animals when offered or displayed for the purpose or with the intent of causing the sexual arousal of a human viewer.

TRANSFER OF OWNERSHIP OR CONTROL OF A SEXUALLY ORIENTED BUSINESS:

- A. The sale, lease, or sublease of the business;
- B. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

- C. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfers by bequest or other operation of law upon the death of the person possessing the ownership or control.

**3-3-3 SEXUALLY ORIENTED BUSINESS LICENSE REQUIRED**

- A. No person shall operate a sexually oriented business without a valid sexually oriented business license issued by the municipality pursuant to this chapter.
- B. No person shall, in connection with operating a sexually oriented business, retain the services of a person as an employee who is not licensed as a sexually oriented business employee by the municipality pursuant to this chapter.

### **3-3-4 SEXUALLY ORIENTED BUSINESS EMPLOYEE LICENSE REQUIRED**

- A. No person shall act as an employee on the premises of a sexually oriented business without having secured a sexually oriented business employee license pursuant to this chapter.

### **3-3-5 SEXUALLY ORIENTED BUSINESS LICENSE APPLICATION**

- A. An application for a sexually oriented business license shall be submitted to the municipality's clerk on a form provided by the enforcement officer. The application may request and the applicant shall provide such information as reasonably necessary (including fingerprints) to enable the municipality to determine whether the applicant meets the qualifications established in this chapter.
- B. An application for a sexually oriented business license shall identify the following persons and be signed under oath by said persons that the information contained therein is true:
  - 1. If the business entity is a sole proprietorship, that sole proprietor;
  - 2. If the business entity is a corporation, each officer and director of the corporation and each individual with a ten percent (10%) or greater ownership interest in the corporation;
  - 3. If the business entity is a partnership, each general partner, and each limited partner who owns ten percent (10%) or more of total limited partnership interest;
  - 4. If the business is a limited liability company, each manager, and each member with a ten percent (10%) or greater ownership interest in the company. If the limited liability company does not have any managers, then each member must be disclosed.
- C. An application for a sexually oriented business license must designate one or more natural persons who are to be principally responsible for the operation of the proposed sexually oriented business, if a license is granted. At least one natural person so designated must be involved in the day to day operation of the proposed sexually oriented business on a regular basis. Each natural person so designated, as well as the business entity itself, shall be considered a license applicant, must qualify as a licensee under this chapter, and shall be considered a licensee if a license is granted.
- D. An application for a sexually oriented business license shall be completed according to the instructions of the application form, which shall require the following:
  - 1. If the applicant is:
    - a. An individual, state the legal name, address, date of birth, social security number, and any aliases of such individual;
    - b. A partnership, state the complete name of the partnership and all of its partners and whether the partnership is general or limited, and provide a copy of the partnership agreement, if any, and the information specified in subsection D1a of this section for each partner;
    - c. A corporation, state the complete name of the corporation and the date of its incorporation, provide evidence that the corporation is in good standing under the laws of its state of incorporation and of Illinois, and state the names and capacity of all officers and directors, all persons owning ten percent (10%) or more of the stock of the corporation, the name of the registered corporate agent, and the address of the registered office for service of process, and the information

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specified in subsection D1a of this section for each officer, director and owner of  
ten percent (10%) or more of the stock;

- d. A limited liability company, state the complete name of the company and the date of its organization, provide evidence that the company is in good standing under the laws of its state of organization and of Illinois, and state the names and capacity of all members, owners and managers, the name of the registered agent, and the address of the registered office for service of process, and the information specified in subsection D1a of this section for each member, owner and manager.
2. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, state the fictitious name to be used and submit copies of documentation evidencing the registration of the business name under applicable laws.
3. State whether any applicant has been convicted of a specified criminal activity, and if so, the specified criminal activity involved and the date, place, and jurisdiction of each such conviction.
4. State whether any applicant has had a previous license under this chapter or other similar regulation of another jurisdiction denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation; and state whether the applicant has been a partner in a partnership or an officer, director, or ten percent (10%) or greater owner of a corporation, or a member or manager of a limited liability company, licensed under this chapter whose license has previously been denied, suspended or revoked, including the name and location of the business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.
5. State whether any applicant holds any other licenses under this chapter or other similar regulation from this or another jurisdiction and, if so, the names and locations of other such licensed businesses.
6. State the nature of the sexually oriented business for which the applicant is filing.
7. State the location of the proposed sexually oriented business, including a legal description of the property (i.e., block and lot), street address, telephone number(s), e-mail address and internet website URL, if any.
8. State the mailing address of each applicant and each person signing the application.
9. For any applicant who is a natural person, describe and identify the location of any tattoos on such person's face, arms, legs, or hands, or any other anatomical area that normally would be visible when such person is on the premises of the proposed sexually oriented business.
10. Submit proof that each applicant who is a natural person is at least eighteen (18) years old.
11. Submit a sketch or diagram showing the configuration of the premises of the sexually oriented business, including the location of all stages, walls, partitions, designated sales areas, bookcases, and patron seating, and a statement of total floor space occupied by the business. The diagram shall also designate the place at which the sexually oriented business license will be conspicuously posted, if granted. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus one foot (.1').

### **3-3-6 ISSUANCE OF A SEXUALLY ORIENTED BUSINESS LICENSE**

- A. Upon receipt of a completed application for a sexually oriented business license, the municipality's clerk shall immediately file a copy of the completed application with the enforcement officer.
- B. Upon receipt of a copy of a completed application for a sexually oriented business license, the enforcement officer, or any peace officer designated by the enforcement officer, shall promptly investigate the information provided in the application concerning the criminal background of the applicants and shall record the results of the investigation in writing within five (5) days of the completion of the investigation. If the investigation is done by a peace officer designated by the enforcement officer, then the written results of the investigation shall also be filed with the enforcement officer within five (5) days of the completion of the investigation.
- C. Within five (5) days of receipt of a copy of a completed application for a sexually oriented business license, the enforcement officer shall notify the municipality's fire chief and building department of such application. In making such notification, the enforcement officer shall request that the fire chief and the building department promptly inspect the premises for which the sexually oriented business license is sought to assess compliance with the regulations under their respective jurisdictions.
- D. The fire chief of the fire protection district where the business seeks to locate shall provide to the enforcement officer a written certification of whether the premises are in compliance with the fire code within five (5) days of completing the inspection.
- E. The code official shall provide the enforcement officer a written certification of whether the premises are in compliance with the building code, the planning and zoning code, and the provisions of this chapter related to physical characteristics of the premises within five (5) days of completing the inspection.
- F. The enforcement officer shall approve the issuance of a license to an applicant unless the enforcement officer determines by a preponderance of the evidence that one or more of the following findings is true:
  - 1. An applicant is a natural person who is under eighteen (18) years of age.
  - 2. An applicant has failed to provide information reasonably necessary for issuance of the license as requested on the application form, or has provided false information.
  - 3. An applicant has been denied a sexually oriented business license or has had a license to operate a sexually oriented business revoked within the preceding twelve (12) months by any jurisdiction.
  - 4. An applicant has been convicted of a specified criminal activity.
  - 5. The proposed sexually oriented business or the premises on which it would operate would violate or fail to be in compliance with any provisions of the zoning code, the provisions of this chapter related to physical characteristics of the premises, or any state or federal law.
  - 6. The application and investigation fee required by this chapter has not been paid.
  - 7. An applicant is otherwise in violation of or is not in compliance with any provision of this chapter.
- G. If the enforcement officer determines that no grounds for denial of a license exist under this section, the enforcement officer shall not delay approval of the application.

- H. A sexually oriented business license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the licensed sexually oriented business. All sexually oriented business licenses shall be posted in a conspicuous place at or near the entrance to the business so that they may be easily read at any time.
- I. The enforcement officer shall advise the applicant in writing of the reasons for any license denial. The written license denial shall be either served on the applicant personally or by placing it in a sealed envelope, addressed to the applicant at the address set forth in the application, and depositing it with the United States postal service, proper first class postage prepaid. The enforcement officer may, but is not required to, serve the written license denial by certified or registered mail, as set forth above.

### **3-3-7 SEXUALLY ORIENTED BUSINESS EMPLOYEE LICENSE APPLICATION**

- A. An application for a sexually oriented business employee license shall be submitted to the municipality's clerk on a form provided by the enforcement officer. The application may request and the applicant shall provide such information as reasonably necessary (including fingerprints) to enable the municipality to determine whether the applicant meets the qualifications established in this chapter.
- B. An application for a sexually oriented business employee license shall be completed according to the instructions of the application form, signed by the applicant under oath that the information contained therein is true, and shall require the following:
  - 1. State the applicant's name and any other names (including "stage" names) or aliases used by the applicant. State the applicant's date and place of birth.
  - 2. State the applicant's height, weight, and hair and eye color.
  - 3. Describe and identify the location of any tattoos on the applicant's face, arms, legs, or hands, or any other anatomical area that normally would be visible when the applicant is on the premises of the proposed sexually oriented business.
  - 4. State the applicant's present and intended business address and telephone number, identifying the sexually oriented business at which the applicant intends employment.
  - 5. Submit proof that the applicant is at least eighteen (18) years old.
  - 6. Provide a statement detailing the sexually oriented business employee license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate a sexually oriented business, in this or any other jurisdiction, and whether the applicant has ever had a sexually oriented business license or a sexually oriented business employee license, permit, or authorization to do business denied, revoked, or suspended by this or any other jurisdiction. In the event of any such denial, revocation, or suspension, state the name of the issuing or denying jurisdiction and describe in full the reason for the denial, revocation, or suspension. Attach a copy of any order of denial, revocation, or suspension.
  - 7. State whether the applicant has been convicted of a specified criminal activity and, if so, the specified criminal activity involved and the date, place and

jurisdiction of each such conviction, and the date of release from confinement, if any, for such conviction.

**3-3-8 ISSUANCE OF SEXUALLY ORIENTED BUSINESS EMPLOYEE LICENSE**

- A. Upon receipt of a completed application for a sexually oriented business employee license, the municipality's clerk shall immediately file a copy of the completed application with the enforcement officer.
- B. Upon receipt of a copy of a completed application for a sexually oriented business employee license, the enforcement officer, or any peace officer designated by the enforcement officer, shall promptly investigate the information provided in the application concerning the criminal background of the applicant and shall record the results of the investigation in writing within five (5) days of the completion of the investigation. If the investigation is done by a peace officer designated by the enforcement officer, then the written results of the investigation shall also be filed with the enforcement officer within five (5) days of the completion of the investigation
- C. The enforcement officer shall approve the issuance of a license to an applicant unless the enforcement officer determines by a preponderance of the evidence that one or more of the following findings is true:
  - 1. The applicant has failed to provide information reasonably necessary for issuance of the license as requested on the application form, or has given false information.
  - 2. The applicant is under eighteen (18) years of age.
  - 3. The applicant has been convicted of a specified criminal activity.
  - 4. The sexually oriented business employee license is to be used for employment in a business prohibited by local, state, or federal law, statute, rule or regulation.
  - 5. The sexually oriented business where the applicant intends employment is not a licensed sexually oriented business pursuant to this chapter.
  - 6. The applicant has been denied a sexually oriented business license or a sexually oriented business employee license, or has had a sexually oriented business license or a sexually oriented business employee license revoked within the preceding twelve (12) months by any jurisdiction.
  - 7. The enforcement officer shall advise the applicant in writing of the reasons for any license denial. The written license denial shall be either served on the applicant personally or by placing it in a sealed envelope, addressed to the applicant at the address set forth in the application, and depositing it with the United States postal service, proper first class postage prepaid. The enforcement officer may, but is not required to, serve the written license denial by certified or registered mail, as set forth above.

**3-3-9 FEES**

- A. Every application for a new sexually oriented business license shall be accompanied by a nonrefundable application and investigation fee in the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code.

- B. Every application for renewal of a sexually oriented business license shall be accompanied by a nonrefundable application and investigation fee in the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code.
- C. In addition to the application and investigation fee required in subsection A or B of this section, every applicant that is granted a sexually oriented business license (new or renewal) shall pay to the municipality an annual, nonrefundable license fee in the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code.
- D. Every application for a new sexually oriented business employee license shall be accompanied by an annual, nonrefundable application, investigation, and license fee in the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code.
- D. Every application for renewal of a sexually oriented business employee license shall be accompanied by an annual, nonrefundable application, investigation, and license fee in the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code.

### **3-3-10 EXPIRATION AND RENEWAL OF LICENSE**

- A. Each license issued pursuant to this chapter shall expire one year from the date of issuance and may be renewed by making application as provided in this section. Application for renewal shall be made no more than ninety (90) days and no less than twenty eight (28) days before the expiration date. If application is made less than twenty eight (28) days before the expiration date, the license will not be extended pending a decision on the application, but will expire on its normal expiration date.
- B. An application for renewal of a sexually oriented business license or sexually oriented business employee license shall be submitted to the municipality's clerk on a form provided by the enforcement officer. The renewal application may request and the applicant shall provide such information as reasonably necessary to enable the municipality to determine whether the applicant meets the qualifications established in this chapter. The completed renewal application shall describe any changes or additions to, or deletions from, the information provided in the applicant's initial license application. The completed renewal application shall be accompanied by copies of any document or material submitted in connection with the initial license application that has been revised or requires revision to reflect any change in circumstances or conditions. Sketches or diagrams submitted with an initial sexually oriented business license application may be resubmitted with subsequent renewal applications, provided that the applicant certifies in writing that the sketch or diagram still depicts the premises accurately.
- C. The enforcement officer shall make the determination concerning the approval of license renewals based on the same criteria and using the same procedures used to evaluate applications for new licenses under this chapter.
- D. The enforcement officer shall advise the applicant in writing of the reasons for any renewal denial, and shall serve the written renewal denial on the applicant in the same manner as a denial of an initial application.
- E. When the enforcement officer denies an application for renewal of a license, the applicant shall not be issued another license for one year from the date of denial.

### **3-3-11 SUSPENSION**

- A. The enforcement officer shall suspend a sexually oriented business license for a period not to exceed thirty (30) days if the enforcement officer determines that a licensee: 1) has violated or is not in compliance with any section of this chapter except as set forth in subsection [3-3-12B](#) of this chapter; or 2) has knowingly allowed an employee to violate or fail to comply with any section of this chapter.
- B. The enforcement officer shall suspend a sexually oriented business employee license for a period not to exceed thirty (30) days if the enforcement officer determines that a licensee has violated or is not in compliance with any section of this chapter, except as set forth in subsection [3-3-12C](#) of this chapter.
- C. The enforcement officer shall advise the licensee in writing of the reasons for any suspension. The written suspension shall be either served on the applicant personally on or before five (5) days before the suspension is to take effect, or by placing it in a sealed envelope, addressed to the licensee at the address set forth in the application, and depositing it with the United States postal service, proper first class postage prepaid, on or before five (5) days before the suspension is to take effect. The enforcement officer may, but is not required to, serve the written suspension by certified or registered mail, as set forth above.

### **3-3-12 REVOCATION**

- A. The enforcement officer shall revoke a sexually oriented business license or sexually oriented business employee license if a cause for suspension under section [3-3-11](#) of this chapter occurs and the license has been suspended two (2) times within the preceding twelve (12) months.
- B. The enforcement officer shall revoke a sexually oriented business license if he/she determines that:
  - 1. A licensee gave false or misleading information in the material submitted during the application or renewal process;
  - 2. A licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;
  - 3. A licensee has knowingly allowed any specified criminal activity, or the commission of any felony on the premises;
  - 4. A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was pending initial application, expired or suspended;
  - 5. licensee has knowingly allowed one or more specified sexual activities to occur in or on the licensed premises;
  - 6. A licensee has been convicted of a specified criminal activity during the term of the license; or
  - 7. A licensee is delinquent in payment to the municipality for any taxes or fees past due that were assessed or imposed in relation to any business or business property.
- C. The enforcement officer shall revoke a sexually oriented business employee license if he/she determines that:

1. The licensee gave false or misleading information in the material submitted during the application or renewal process;
  2. The licensee has knowingly acted as an employee on the premises of a sexually oriented business during a period of time when the licensee's license was pending initial application, expired or suspended; or
  3. The licensee has been convicted of a specified criminal activity during the term of the license. D. The enforcement officer shall advise the licensee in writing of the reasons for any revocation. The written revocation shall be either served on the applicant personally on or before five (5) days before the revocation is to take effect, or by placing it in a sealed envelope, addressed to the licensee at the address set forth in the application, and depositing it with the United States postal service, proper first class postage prepaid, on or before five (5) days before the revocation is to take effect. The enforcement officer may, but is not required to, serve the written revocation by certified or registered mail, as set forth above.
- E. When the enforcement officer revokes a license, the licensee shall not be issued another license for one year from the date the revocation became effective.

*Revised: 5/8/14*

### **3-3-13 APPEAL RIGHTS**

- A. Any denial, suspension, or revocation of a new or renewal license under this chapter may be appealed to the mayor by written notice filed with the municipality's clerk within ten (10) days of the effective date of such denial, suspension, or revocation.
- B. The mayor shall notify the appellant in writing of the date for the hearing on the appeal. The written notice shall be either served on the appellant personally on or before five (5) days before the hearing, or by placing it in a sealed envelope, addressed to the appellant at the address set forth in the application, and depositing it with the United States postal service, proper first class postage prepaid, on or before seven (7) days before the hearing. The mayor may, but is not required to, serve the written notice by certified or registered mail, as set forth above.
- C. The mayor shall conduct a hearing on the appeal within fourteen (14) days of receipt of the written notice of appeal by the municipality's clerk, at which hearing the appellant may present witnesses or other evidence opposing the denial, suspension or revocation. The enforcement officer may also present witnesses or other evidence supporting the denial, suspension or revocation. Both parties shall have the right to cross examine witnesses.
- D. The mayor shall determine whether the preponderance of the evidence presented at the hearing supported the decision of the enforcement officer to deny, suspend or revoke the license of the appellant.
- E. The mayor shall issue a written decision setting forth his findings regarding the evidence presented at the hearing, and his decision to affirm or overrule the decision of the enforcement officer. The mayor shall serve a copy of his written decision on the appellant and the enforcement officer in writing. The written decision shall be either served on the parties personally on or before five (5) days after the date of the hearing, or by placing it in a sealed envelope, addressed to the respective parties at the address set forth in the application and at the enforcement officer's ordinary business address, and depositing it with the United States postal service, proper first class postage

prepaid, on or before five (5) days after the hearing. The mayor may, but is not required to, serve the written decision by certified or registered mail, as set forth above.

- F. The written decision of the mayor shall be considered a final decision.

### **3-3-14 TRANSFER OF LICENSE**

- A. A sexually oriented business license is not transferable from one licensee to another or from one location to another. Any purported transfer of a sexually oriented business license shall automatically and immediately revoke that license.
- B. A sexually oriented business employee license is not transferable from one licensee to another, but the use of the license by the individual to whom it was issued may be transferred from one licensed sexually oriented business to another such licensed establishment during the term of the license, provided that the licensee gives written notice of such transfer to the enforcement officer within fifteen (15) days after such transfer.

### **3-3-15 ADDITIONAL REGULATIONS CONCERNING THE OPERATION OF SEXUALLY ORIENTED BUSINESSES**

- A. Conduct of Employees: No employee on the premises of a sexually oriented business may engage in any specified criminal activity, specified sexual activities or excretory functions.
- B. Distance Requirements: Any employee appearing on the premises of a sexually oriented business, in a place that can be viewed by patrons, when said employee is in a state of nudity or seminudity must be on a stage that is at least forty five inches (45") from the floor, and at a distance at least seventy two inches (72") from all parts of a clearly designated area in which patrons will be present, and no patron shall be permitted in any area closer than seventy two inches (72") from the stage.
- C. Touching Prohibited: No employee appearing on the premises of a sexually oriented business in a state of nudity or seminudity may intentionally or knowingly touch a patron or a patron's clothing or permit himself or herself to be touched by a patron or a patron's clothing. No employee may intentionally or knowingly touch a patron's genitals, pubic area, perineum, anus, anal cleft or cleavage, buttocks, pubic hair, or female breast either directly or through clothing or other covering. No employee may intentionally or knowingly permit a patron to touch the employee's genitals, pubic area, perineum, anus, anal cleft or cleavage, buttocks, pubic hair, or female breast either directly or through clothing or other covering. For purposes of this subsection, touching need not be accomplished by the hand, and includes the touching by any part of the toucher's body, clothing or device held by the toucher.
- D. Dressing Rooms: All sexually oriented businesses that offer live entertainment must provide separate dressing room facilities for female and male employees, and which shall not be occupied or used in any way by anyone other than employees.
- E. Minors Prohibited: No person under the age of eighteen (18) years shall be permitted on the premises of a sexually oriented business. Mistake of age is not a defense to a charge under this section, unless the person under the age of eighteen (18) who was permitted on the premises exhibited to the employee a driver's license or other apparently official government issued identification card bearing the patron's photograph, and purporting to show that the person was eighteen (18) years of age or over, and the

employee to whom that document was exhibited did not otherwise have reasonable cause to believe that the person seeking admittance was under eighteen (18) years.

- F. Hours Of Operation: No sexually oriented business shall remain open at any time between the hours of twelve o'clock (12:00) midnight and seven o'clock (7:00) A.M. on weekdays and Saturdays, and twelve o'clock (12:00) midnight and twelve o'clock (12:00) noon on Sundays, nor shall any entertainment, service, or product be provided to a patron on the premises of a sexually oriented business during those hours.
- G. Minimum Lighting Level:
  - 1. The premises of every sexually oriented business shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access, including restrooms, at an illumination level of not less than one hundred fifty (150) foot-candles as measured at floor level.
  - 2. The illumination described in subsection G1 of this section shall be maintained at all times that any patron is present in the premises. In the event of a power failure, the business shall stop operating immediately and all patrons shall be cleared from the premises. The premises shall not be reopened until the minimum illumination level is restored.
- H. Exterior Display: No sexually oriented business shall be operated in any manner that permits the observation from outside the premises of any image, material or entertainment depicting or describing excretory functions, specified sexual activities or specified anatomical areas or any person in a state of nudity or semi nudity, whether by means of display, decoration, sign, window or any other means.

### **3-3-16 PENALTY**

- A. Any person who violates or who intentionally or knowingly permits the violation of any section of this chapter shall be fined the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code and may additionally be sentenced to a term of incarceration not to exceed six (6) months.
- B. Each day that a sexually oriented business or employee operates in violation of this chapter shall constitute a separate offense or violation.

### **3-3-17 INJUNCTION**

Any person who operates or causes to be operated a sexually oriented business in violation of this chapter is subject to a suit for injunction as well as penalties provided in [3-3-16](#) of this chapter.

## CHAPTER 4

### SOLICITATION

#### 3-4-1 DEFINITIONS

As used in this chapter, the following words shall have the meanings given them in this section:

**CHARITABLE:** Shall mean and include the words patriotic, philanthropic, social service, welfare, benevolent, educational, civic or fraternal, either actual or purported.

**CHARITABLE ORGANIZATION:** An organization which is registered with the attorney general of the state of Illinois pursuant to 225 ILCS 460/2 or which is exempt from registration with the attorney general pursuant to 225 ILCS 460/3.

**CONTRIBUTIONS:** Shall mean and include the words alms, food, clothing, money, property, financial assistance or other thing of value.

**ORGANIZATION:** Any firm, partnership, corporation, company, association, church, religious sect, religious denomination, society, organization or league.

**PREMISES:** A building or portion of a building including the real estate upon which any such building is located.

**RELIGIOUS:** Shall not mean and include the word "charitable" as defined in this section, but shall be given its commonly accepted definition.

**SOLICIT OR SOLICITATION:** One or more of the following activities:

- A. Selling or offering for sale, or taking or attempting to take orders for the sale of goods or services of any kind, character or description.
- B. Selling or offering for sale, or taking or attempting to take orders for the sale of books, magazines, periodicals, newspapers and any other type or kind of publication.
- C. Requesting directly or indirectly contributions on the plea or representation that such contributions will be used for a charitable or religious purpose; where any such sale, offer, taking, attempt or request is personally solicited.

#### 3-4-2 PERMITS REQUIRED; APPLICATIONS

- A. It shall be unlawful for any person to engage in solicitation in the Village without first obtaining a written permit from the Village. For the purposes of obtaining such permit, a written application shall be made, in a form prescribed by the Village clerk, setting forth the following:
  - 1. The full name, mailing address and telephone number of the individual person who will be engaged in the proposed solicitation.
  - 2. A description of the person who will be engaged in the proposed solicitation.

3. The full name, mailing address and telephone number of the person or organization sponsoring, promoting or conducting the proposed solicitation
  4. The full name, mailing address and telephone number of the person or persons who will have supervision of and responsibility for the proposed solicitation.
  5. The nature of the business or activities conducted by the person or organization on whose behalf the proposed solicitation will be conducted.
  6. A description of the proposed solicitation, indicating the type of communications to be involved.
  7. The dates and hours which the solicitation is proposed to begin, and the expected duration of the proposed solicitation.
  8. The purpose of the activities of the solicitation.
  9. A statement of whether or not the individual person or organization who will be engaged in the proposed activities has ever been convicted of any one or more of the following:
    - a. A violation of any law or ordinance concerning canvassing or soliciting;
    - b. A felony; or
    - c. Any crime involving moral turpitude.
  10. The full name, mailing address and telephone number of at least one reputable person or organization, not related to nor affiliated with or employed by the individual person or organization, who will be engaged in the proposed solicitation.
- B. The written application shall be filed no later than thirty (30) days preceding the day on which the proposed solicitation is expected or proposed to be commenced.
- C. In the event the type of solicitation proposed involves transactions subject to state sales tax, the applicant shall supply a copy of their retail occupation tax certificate.

### **3-4-3 ISSUANCE OF PERMIT; STANDARDS**

Applications for solicitation permits submitted by governmental entities and non-profit organizations shall be subject to approval by the village clerk. The clerk will notify the corporate authorities within 24 hours of issuing the permit. All other solicitation permits are subject to approval by the corporate authorities.

When considering whether to issue a permit, the clerk or corporate authorities, as the case may be, shall consider the following:

- A. **Limited Number:** No more than two (2) solicitor's permits in residential areas shall be issued for the same month for which the application has been made.
- B. **Order Of Preference:** Where solicitation is to be conducted in the public places of the Village, permits may be issued in the following order of preference with respect to pending application:

First: To those applicants whose solicitation request is coordinated with a national or statewide financial drive. The following are illustrative of such drives: Rotary Club, Easter Seals, United Way, Poppy Day, Salvation Army Donut Day, Kiwanis Peanut Day, Lion's Candy Day and Knights of Columbus Tootsie Roll Day.

Second: To such other persons, organizations or groups as may be approved by the clerk or corporate authorities, as the case may be. Character: Whether the applicant is of good character and has a reputation for honesty and integrity. In the event the applicant is not an individual person, whether every member, managing officer or agent of the applicant is of good character and has a reputation for honesty and integrity.

- C. Supervision: Whether control and supervision of the solicitation will be under a responsible and reliable person. Supervision must be by persons who are at least eighteen (18) years of age.
- D. Fraud: Whether the applicant has engaged in any fraudulent transaction or enterprise.
- E. Permit Fees: Permit fees shall be paid at the time the permit application is filed with the village clerk, and shall be in the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code, unless the village board of trustees waives the applicable fees. Non-profit organizations registered with the state of Illinois and governmental entities shall be exempt from payment of the solicitation fees.
- F. Issued Permits: Issued permits shall be for one consecutive three (3) day period, and no more than four (4) permits will be issued to the same organization within the same calendar year, unless otherwise approved in the solicitation permit.
- G. Annual Permit for Multiple Activities. An organization may apply for and be issued an annual permit to allow the organization to conduct multiple solicitation activities within a one year period.

#### **3-4-4 DENIAL OF PERMIT**

The clerk or corporate authorities, as the case may be, shall not approve the issuance of a permit if:

- A. A statement or statements contained in the application are found to be incorrect, provided that the applicant has been given an opportunity to correct or amend the application.
- B. The person who will be engaged in the solicitation has been convicted of:
  - 1. A violation of any law or ordinance concerning canvassing or soliciting;
  - 2. A felony; or
  - 3. Any crime involving moral turpitude.

#### **3-4-5 APPLICATION IS PUBLIC RECORD**

The application for a permit to engage in solicitation shall be a matter of public record and shall be available for inspection by members of the public during business days.

#### **3-4-6 PERMIT**

Upon approval of the application for a permit to engage in solicitation, the village clerk or the clerk's representative shall issue the applicant a permit for each individual who will be soliciting, and the permit form shall contain the following:

- A. Full name, mailing address and telephone number of the person engaged in solicitation;
- B. Full name and mailing address of the person or organization on whose behalf the solicitation is being conducted;
- C. The dates and hours for which the permit is valid.
- D. Each individual solicitor must be in possession of the Village issued permit at all times while engaged in solicitation.

### **3-4-7 PERMIT REVOCATION**

A permit to engage in solicitation shall be revoked if:

- A. The person engaged in solicitation engages in any conduct prohibited by this chapter.
- B. The village becomes aware of facts which would have served as a basis for denying a permit.

### **3-4-8 POSTED PERMISSION**

No person shall engage in solicitation upon any premises without a prior invitation from the occupant thereof, if such premises is posted against such solicitation by means of a notice prominently displayed, upon which is printed the legend: "No Solicitors" or "No Trespassing". For the purpose of this section, the premises shall be deemed to be posted if there is exhibited, on or near the main entrance to the premises or on or near the main door to the premises located thereon, a sign at least three inches by four inches (3" x 4") in size which bears either of the above legends in letters at least one-third inch ( $\frac{1}{3}$ " ) in height.

### **3-4-9 FAILURE TO LEAVE PREMISES**

No person shall engage in solicitation upon any premises or in any dwelling house, apartment or other structure after having been asked by the owner or occupant to leave such premises.

### **3-4-10 PROHIBITED PRACTICES**

- A. Hours: There shall be no solicitation upon any premises, other than upon prior invitation of the occupant of any such premises, prior to ten o'clock (10:00) A.M. or after six o'clock (6:00) P.M., local time, of any day.
- B. Maximum Number of Solicitors upon One Premises: Not more than two (2) individuals shall engage in solicitation upon any premises at the same time for the same goods or services, or religious or charitable purposes. Each individual member of a group engaged in solicitation in violation of this provision shall be deemed to have violated such provision.

- C. **Maximum Number of Visits:** No person shall make more than one solicitation call at the same premises for identical goods or services or for the same religious or charitable purpose within any consecutive one hundred twenty (120) day period, without receiving a prior invitation therefor from the occupant of any such premises.
- D. **Identification Required:** Any person engaged in solicitation shall have the Village issued permit in their possession at all times. The permit must be presented for inspection at the request of any solicited resident, village employee or official. No person engaged in solicitation shall at the time of initial contact with a prospective customer fail to verbally identify himself/herself and the specific organization he/she represents.
- E. **False Statements or Misrepresentations:** No person or organization engaged in solicitation shall misrepresent the purpose of his solicitation or use any false, deceptive or misleading misrepresentation to induce a sale or contribution, or use any plan, scheme or ruse which misrepresents the true status or mission of a person making the call.
- F. **Use of Obscene Language Prohibited:** No person engaged in solicitation shall use abusive, vulgar, obscene or offensive language during his contact with a prospective customer or donor.
- G. **Use of Threat or Force:** No person engaged in solicitation shall threaten to use force or use force against a prospective customer or donor, his family or his property.
- H. **Use of Disturbing Sounds or Noises:** No person engaged in solicitation shall use any sound or voice amplification system or any other device which causes loud or disturbing noises while engaged in solicitation.
- I. **Public Solicitations:** No person who is not a charitable organization or representing a charitable organization shall solicit on any public street or sidewalk within the Village.

## CHAPTER 5

### COIN OPERATED AMUSEMENTS

#### 3-5-1 DEFINITIONS

**COIN OPERATED AMUSEMENT DEVICE:** Any machine which, upon the insertion of a coin, token, slug or upon the payment of any fee, operates or may be operated by the public generally as a game or contest of skill or amusement of any kind or description and which does not provide for any tangible payoff, reward or return of token or fee to the player. The term shall mean and include any pinball, ball table or marble machine or any other similar type of game, machine or table in which any ball, sphere, missile, arm, vehicle, crane, rod or plunger is struck, released, controlled or manipulated for the purpose of amusement or skill or any electrical machine or game controlled or manipulated for the purpose of amusement or skill and in which a test of skill is involved. The term also means and includes any machine vending recorded music or a period of radio or television entertainment in return for the insertion or deposit therein of a coin, token or slug; provided, however, that this does not include coin operated radios or televisions within private quarters. The term also means and includes any billiard, pool table or bumper pool table, the operation of which is dependent upon the use of a coin to obtain balls. The term shall include any such game which is played with the use of a table, cue sticks and pool balls or billiard balls likewise dependent upon the use of any coin for payment, by automatic means.

**PREMISES:** Any building, room or store wherein the right to possession is undivided and exists in one owner or group of owners, which building, room or store has no more than one meter for utilities such as water, electricity, natural gas or other utilities. No "premises" as defined hereinabove shall be permitted to be the subject of a space lease, a partial sublease or franchise lease agreement, the purpose of which is to create more than one right to possession in any premises. Any such space lease, partial sublease or franchise lease agreement shall have no force and effect for the purpose of this chapter relating to coin operated amusement devices.

**PROPRIETOR:** Any person acting in the capacity of owner, lessee or any other person in control, either directly or through an agent, of the premises or place wherein any coin operated amusement device is located for the purpose of being operated.

**PUBLIC PLACE:** Any tavern, drugstore, eating place, club room or other place open to the public generally, or to a group of selected members or patrons, wherein a coin operated amusement device is maintained for the purpose of being operated by and for the enjoyment or benefit of the patrons, members or other persons who may be upon the premises

It shall be unlawful for any proprietor to use and operate or keep for use and operation, any coin-operated amusement device in any public place or premises within the Village unless a license therefor shall have first been obtained, as hereinafter provided. The persons or premises which shall be eligible for the keeping or operation or use of any coin-operated amusement devices shall be:

- A. Premises limited to a maximum of twenty five (25) coin-operated amusement machines.

- B. It is further provided that for the purpose of numerical limitation of the type of premises or licensees, coin-operated amusement devices for machine-vended recorded music (juke boxes) shall not be so limited in number or by type of license. No premises as defined hereinabove shall be permitted to be the subject of a space lease, a partial sub-lease or franchise lease agreement, the purpose of which is to create more than one right in possession in any premises. Any such space lease, partial sub-lease or franchise lease agreement shall have no force and effect for the purpose of this section relating to coin-operated amusement devices.

### **3-5-3 APPLICATION**

- A. Application for licenses required herein shall be made in writing to the Village clerk and shall include the following information:
  - 1. The name and address of the applicant, and if a firm, corporation, club or partnership, the names of all principal officers thereof, and their addresses.
  - 2. All prior criminal convictions of applicant, if any.
  - 3. Place where the device is to be displayed or operated, and the business conducted at that place.
  - 4. The number and general description of all devices intended to be kept for use on the premises for which a license is required by section [3-5-2](#) of this chapter, the number of which shall not exceed twenty five (25), and the name of the owner or the business name under which the applicant has a liquor license (juke boxes excluded).
  - 5. A schedule of the hours during which such place is open for use by the members, patrons or public.
- B. It shall be unlawful for any person to sign or present any application for a license required by this chapter knowing it to contain any false statement.

### **3-5-4 LICENSE FEES**

- A. Annual Fee: The annual fee for the license required under this chapter shall be in the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code.
- B. Issuance of License:
  - 1. Licenses issued pursuant to this chapter shall be valid from the date issued to the following May 1. License renewal shall be made before May 1 of each year, and shall be valid until the following May 1.
  - 2. If a new application for a coin-operated amusement device is made during the last six (6) months of any license year, the license fee shall be one-half ( $\frac{1}{2}$ ) of the entire fee.
- C. Temporary License: A license may be issued to an applicant which allows the use of coin-operated amusement devices pursuant to this chapter for a period of time

not to exceed five (5) days per year. In addition to completing an application for a temporary license, the licensee shall be responsible for notifying the Village in writing at least fourteen (14) days in advance prior to any date on which the devices will be made available for use and operation as defined by this chapter. Applicant shall pay a temporary license fee in the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code.

### **3-5-5 ISSUANCE, CONTENTS, DISPLAY, REPLACEMENT OF LICENSE**

- A. Upon approval by the mayor, or designee, of the application and receipt by the village clerk of the required fee, the Clerk shall issue to the applicant a license certificate that bears the name of the Village, license number, year for which issued and date of expiration.
- B. Such license shall be displayed in a conspicuous place in the premises where the amusement device or devices licensed are located.
- C. In the event such certificate shall be lost or destroyed, the village collector shall, upon application and payment of a fee in the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code, issue a replacement certificate expressly marked as such.

### **3-5-6 ASSIGNMENT AND TRANSFER**

- A. The license certificate issued pursuant to this chapter shall be valid only for the person and premises named in the application therefor, and shall not be assignable to any other person or premises.
- B. Written application for transfer or assignment, based upon a reasonable transfer of ownership or location, must be made to and approved by the village clerk or such license shall be deemed invalid. However, no such application or approval is necessary to replace or remove a device so long as the total number of the devices were not increased is necessary to replace or remove a device so long as the total number of the devices were not increased.

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### **3-5-7 GAMBLING AND GAMBLING DEVICES**

- A. No gambling of any sort shall be permitted in the Village except as authorized by this Section.
- B. Video gaming terminals shall be permitted in and upon the premises used or occupied as a place holding a valid Village-issue liquor license if each of the following conditions is first met:
  - 1. The use and placement thereof is in compliance with the provisions of the Video Gaming Act (230 ILCS 40/1 *et seq.*), as amended; and
  - 2. The use and placement thereof is in compliance with the provisions of all rules promulgated by the Illinois Gaming Board pursuant to the Illinois Administrative Procedures Act; and
  - 3. The licensee or agent of the licensee:
    - a. Files with the Village Clerk a copy of the licensee's written use agreement with the terminal operator for placement of the video gaming terminals

and a copy of the license issued by the Illinois Gaming Board as well as, to the extent possible, a copy of a diagram or verbal description approved by the Illinois Gaming Board that shows the authorized location of the terminals; and

- b. Pays to the Village an annual fee of \$25.00 for each video gaming terminal upon the premises. The annual fee shall be due and payable upon application for issuance or renewal. Licenses shall be for not longer than a one-year period from May 1 of each year to April 30 of each following year, unless sooner revoked or suspended. All licenses, regardless of date of issuance, shall terminate on April 30 of each year following the date of issuance. This fee is not in lieu of any fee or payment payable to the Illinois Gaming Board.
- C. Hours of Operation: No video gaming terminal that is permitted under the provisions of this Section may be played except during the legal hours of operation allowed for the consumption of alcoholic beverages on the licensed premises.
- D. Inspection: The Village may inspect or cause the inspection of any place or building in which any such terminal is operated or set up for operation to ensure that the facilities are operated in a manner consistent with public health, safety and welfare and in a manner consistent with both state law and regulations and Village ordinances.
- E. Violation and Revocation: If a licensee violates any provision of the Video Gaming Act or any provision related to video gaming terminals contained in this Section, such violation shall be deemed a violation of the licensee's liquor license and subject to all penalties and restrictions for a liquor license violation, as well as this Section. In addition, a violation of this Section or of any ordinance pertaining to the conduct of such business may result in the revocation of the licensee's video gaming terminal license issued by the Village, and the Village may report any violations to the Illinois State Gaming Board or other appropriate regulatory agency.

**3-5-8**

**REGULATIONS, GENERALLY**

No coin operated amusement device shall be operated or kept for operation in any public place:

- A. License: Where a valid license is not in full force and effect for the operation by the proprietor of any coin operated amusement device and the same is not conspicuously displayed on the premises.
- B. Nuisance: At any time when, because of the condition of the premises or of the coin operated amusement device, the operation of such device would constitute a nuisance or a fire hazard, or would in any other way endanger the safety of patrons, members of the club or other persons who may be legally upon such premises.

*FINAL –Revised: 5/8/14*

## **CHAPTER 6**

### **GARAGE SALES**

#### **3-6-1 DEFINITION**

The term "garage sale" shall be defined as all sales on residential property of miscellaneous secondhand merchandise to the public, including, but not limited to, household furnishings, appliances, tools, clothing and equipment. The term garage sale shall further include sales commonly known as rummage sales, moving sales, barn sales and yard sales.

#### **3-6-2 PERMITS; APPLICATION**

- A. No garage sale may be conducted without obtaining a permit from the village clerk's office. Said permit shall require no fee.
- B. The applicant must specify the date, time and place of the sale, the person conducting the sale, and the type and location of all signs to be posted.

#### **3-6-3 RESTRICTIONS**

- A. Permitted Time: Garage sales are permitted only in the residential districts, and only when limited to the personal possessions of the owner-occupant of the dwelling unit at which such sale is being conducted. The garage sale shall be limited to a period not to exceed three consecutive days, and no more than two such sales shall be conducted from the same dwelling in any 12-month period. The annual village-wide garage sale will not count towards the two sale limitation.
- B. Signs:
  - 1. Up to five (5) freestanding signs will be allowed per address including the sign located on the premises where the garage sale is located.
  - 2. All garage sale signs are required to display the address and date(s) of the sale.
  - 3. No sign shall be nailed to a tree or permanently mounted, nor shall any sign exceed eighteen inches by twenty four inches (18" x 24") in size.
  - 4. Signs may be posted in store windows/bulletin boards with the approval of the store owners.
  - 5. No sign may be posted before the first day of the sale.
  - 6. A minimum fine in the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 will be imposed for all signs that are not removed within twenty four (24) hours after the last day of the sale.

## **CHAPTER 7**

### **RAFFLES**

#### **3-7-1 NECESSITY FOR LICENSE**

- A. No person shall conduct raffles in the Village without first having obtained a license therefor pursuant to this chapter.
- B. This chapter is adopted pursuant to the Raffles Act, 230 ILCS 15/2.

#### **3-7-2 DEFINITIONS**

**BUSINESS:** A voluntary organization composed of individuals and businesses who have joined together to advance the commercial, financial, industrial, and civic interests of a community.

**CHARITABLE:** An organization or institution organized and operated to benefit an indefinite number of the public. The service rendered to those eligible for benefits must also confer some benefits on the public.

**EDUCATIONAL:** An organization or institution organized and operated to provide systematic instruction in useful branches of learning by methods common to schools and institutions of learning which compare favorably in their scope and intensity with the course of study presented in tax supported schools.

**FRATERNAL:** An organization of persons having a common interest, the primary interest of which is to both promote the welfare of its members and to provide assistance to the general public in such a way as to lessen the burdens of government by caring for those that otherwise would be cared for by the government.

**LABOR:** An organization composed of workers organized with the objective of betterment of the conditions of those engaged in such pursuit and development of a higher degree of efficiency in their respective occupations.

**LOTTERY:** Any scheme or procedure whereby one or more prizes are distributed by chance among persons who have paid or promised consideration for a chance to win such prizes, whether such scheme or procedure is called a lottery, raffle, gift, sale or some other name.

**NET PROCEEDS:** The gross receipts from the conduct of raffles, less reasonable sums expended for prizes, local license fees and other reasonable operating expenses incurred as a result of operating a raffle.

**NON-PROFIT:** An organization or institution organized and conducted on a not-for-profit basis with no personal profit inuring to any one as a result of the operation.

**NON-PROFIT FUNDRAISING ORGANIZATION:** An organization the Village determines is organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering extreme financial hardship as the result of an illness, disability, accident or disaster.

**RAFFLE:** A form of lottery, as defined in section 28-2(b) of the "Criminal code of 1961", conducted by an organization licensed under this Act, for which:

- A. The player pays or agrees to pay something of value for a chance, represented and differentiated by a number or by a combination of numbers or by some other medium, one or more of which chances is to be designated the winning chance.
- B. The winning chance is to be determined through a drawing or by some other method based on an element of chance by an act or set of acts on the part of persons conducting or connected with the lottery, except that the winning chance shall not be determined by the outcome of a publicly exhibited sporting contest.

**RELIGIOUS:** Any church, congregation, society, or organization founded for the purpose of religious worship.

**VETERANS:** An organization or association comprised of members of which substantially all are individuals who are veterans or spouses, widows, or widowers of veterans, the primary purpose of which is to promote the welfare of its members and to provide assistance to the general public in such a way as to confer a public benefit.

### **3-7-3 ELIGIBILITY**

- A. The following are eligible for licenses under this chapter:
  - 1. Bona fide religious, charitable, labor, fraternal, educational or veterans' organizations that operate:
    - a. without profit to their members;
    - b. which have been in existence continuously for a period of five (5) years immediately before making application for a license; and
    - c. which have had during the entire five (5) year period a bona fide membership engaged in carrying out their objectives;
  - 2. Non-profit fundraising organizations; and
  - 3. Village of Island Lake.
- B. The following are ineligible for any license under this chapter:
  - 1. Any person who has been convicted of a felony;
  - 2. Any person who is or has been a professional gambler or gambling promoter;
  - 3. Any person who is not of good moral character; Any firm or corporation in which a person defined in subsection B1, B2 or B3 of this section has a proprietary, equitable or credit interest, or in which such a person is active or employed;
  - 4. Any organization in which a person defined in subsection B1, B2 or B3 of this section is an officer, director, or employee, whether compensated or not;

5. Any organization in which a person defined in subsection B1, B2 or B3 of this section is to participate in the management or operation of a "raffle" as defined in this chapter.

### 3-7-4 LICENSE AND APPLICATION

- A. Licenses issued pursuant to this chapter shall be subject to the following restrictions:
  1. The aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle shall not exceed twenty thousand dollars (\$20,000.00);
  2. The maximum retail value of each prize awarded by a licensee in a single raffle shall not exceed fifteen thousand dollars (\$15,000.00);
  3. The maximum price which may be charged for each chance issued or sold shall not exceed one percent (1%) of the aggregate retail value of all prizes or merchandise to be awarded at the respective raffle;
  4. The maximum number of days during which chances may be issued or sold for any single raffle shall be one hundred twenty (120) days; and
  5. The license issued for any given raffle shall be valid for one hundred forty five (145) days after issuance by the village clerk.
- B. The license and application must specify:
  1. The name, address and type of prospective licensee so applying, its length of existence and incorporation date, if any, and the name, address, social security number and date of birth of the presiding officer, secretary, raffles manager and any other member responsible for raffle management;
  2. The area or areas within the Village in which chances will be issued or sold;
  3. The time period during which chances will be issued or sold;
  4. The time of determination of winning chances;
  5. The location or locations at which winning chances will be determined;
  6. The aggregate retail value of all prizes or merchandise to be awarded in the raffle;
  7. The maximum retail value of any single prize to be awarded in the raffle, and
  8. The maximum price to be charged per chance issued or sold.
- C. Each application shall contain a sworn statement attesting to the nonprofit character of the prospective licensee organization, signed by the presiding officer and secretary of said organization.

- D. Each license hereunder is valid for one raffle only; however, an organization may apply for approval of multiple raffles over the period not to exceed one year.
- E. The village clerk is authorized to approve and issue licenses to eligible applicants that satisfy the requirements of this chapter.
- F. The village clerk shall act on a license application within 30 days from the date of application.
- G. The village clerk must provide notice to the corporate authorities by email within 24 hours of issuance of the raffle license.
- H. No fee will be charged for a raffle permit.

### **3-7-5 CONDUCT OF RAFFLES**

The conducting of raffles is subject to the following restrictions:

- A. The entire net proceeds of any raffle must be exclusively devoted to the lawful purposes of the organization permitted to conduct that game.
- B. No person except a bona fide member of the sponsoring organization may participate in the management or operation of the raffle.
- C. No person may receive any remuneration or profit for participating in the management or operation of the raffle.
- D. A licensee may rent a premises on which to determine the winning chance or chances in a raffle only from an organization which is also separately licensed under this chapter.
- E. Chances may be sold or issued only within the area specified on the license, and winning chances may be determined only at those locations specified on the license.

### **3-7-6 RAFFLES MANAGER**

All operation of and the conduct of raffles shall be under the supervision of a single raffles manager designated by the licensee. The manager shall give a fidelity bond in an amount equal to fifty percent (50%) of the aggregate retail value of all prizes or merchandise to be awarded at the raffle, in favor of the licensee conditioned upon his honesty in the performance of his duties, or if the retail value of the prizes to be awarded is not known (such as a 50-50 raffle), a bond shall be provided in the amount of \$1,000. Terms of the bond shall provide that notice shall be given in writing to the Village not less than thirty (30) days prior to its cancellation. The village board may waive the bond requirement.

### **3-7-7 RECORDS**

- A. Each licensee shall keep records of its gross receipts, expenses and net proceeds for each single gathering or occasion at which winning chances are determined. All deductions from gross receipts for each single gathering or occasion shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other reason for the

deduction, and the recipient. The distribution of net proceeds shall be itemized as to payee, purpose, amount and date of payment.

- B. Gross receipts from the operation of raffles programs shall be segregated from other revenues of the licensee, and placed in a separate account. Each licensee shall have separate records of its raffles. The person who accounts for gross receipts, expenses and net proceeds from the operation of raffles shall not be the same person who accounts for other revenues of the licensee.
- C. Each licensee shall report to its membership, and to the Village, its gross receipts, expenses and net proceeds from raffles, and the distribution of net proceeds itemized as required in this section.
- D. Records required by this section shall be preserved for three (3) years, and organizations shall make available their records relating to operation of raffles for public inspection at reasonable times and places.

### **3-7-8 PENALTIES**

A violation of any provision of this chapter shall be a misdemeanor punishable by a fine shall be fined in the amount set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code. Each day the violation continues shall constitute a separate offense.

## CHAPTER 8

### GAS

#### 3-8-1 REGULATIONS

The sales, use and storage of liquid petroleum (LP) gas, natural gas and any other flammable substance which occurs in a gaseous form at seventy degrees Fahrenheit (70°F) and stored in containers having a capacity of ten (10) gallons or more or thirty (30) pounds or more of such substance is prohibited within the Village except as follows:

- A. In industrially zoned areas at least one-fourth ( $\frac{1}{4}$ ) mile, one thousand three hundred twenty feet (1,320'), from the nearest estate or residentially zoned property;
- B. After issuance of a special use permit therefor as provided in section [9-11-17](#) of this code.

Approved: 3/22/2012; Revised: 5/8/14

## CHAPTER 9

### **TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE FEE**

#### **3-9-1 DEFINITIONS**

As used in this chapter, the following terms shall have the following meanings:

**GROSS CHARGES:** The amount paid to a telecommunications retailer for the act or privilege of originating or receiving telecommunications within the Village, and for all services rendered in connection therewith, valued in money whether paid in money or otherwise, including cash, credits, services, and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of the materials used, labor or service costs, or any other expense whatsoever. In case credit is extended, the amount thereof shall be included only as and when paid. "Gross charges" for private line service shall include charges imposed at each channel point within the Village, charges for the channel mileage between each channel point within the Village, and charges for that portion of the interstate interoffice channel provided within the Village. However, "gross charges" shall not include:

- A. Any amounts added to a purchaser's bill because of a charge made under: 1) the fee imposed by this section, 2) additional charges added to a purchaser's bill under section 9-221 or 9-222 of the Public Utilities Act, 3) amounts collected under section 8-11-17 of the Illinois Municipal code, 4) the tax imposed by the Telecommunications Excise Tax Act, 5) 911 surcharges, or 6) the tax imposed by section 4251 of the Internal Revenue code;
- B. Charges for a sent collect telecommunication received outside the Village;
- C. Charges for leased time on equipment or charges for the storage of data or information or subsequent retrieval or the processing of data or information intended to change its form or content. Such equipment includes, but is not limited to, the use of calculators, computers, data processing equipment, tabulating equipment, or accounting equipment and also includes the usage of computers under a time-sharing agreement;
- D. Charges for customer equipment, including such equipment that is leased or rented by the customer from any source, wherein such charges are disaggregated and separately identified from other charges;
- E. Charges to business enterprises certified under section 9-222.1 of the Public Utilities Act to the extent of such exemption and during the period of time specified by the Village;
- F. Charges for telecommunications and all services and equipment provided in connection therewith between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, and only to the extent that the charges between the parent corporation and wholly owned subsidiaries or between wholly owned subsidiaries represent expense allocation between the corporations and not the generation of profit other than a regulatory required profit for the corporation rendering such services;
- G. Bad debts ("bad debt" means any portion of a debt that is related to a sale at retail for which gross charges are not otherwise deductible or excludable that has become worthless or uncollectible, as determined under applicable Federal income tax standards; if the portion of

the debt deemed to be bad is subsequently paid, the retailer shall report and pay the tax on that portion during the reporting period in which the payment is made);

- H. Charges paid by inserting coins in coin-operated telecommunications devices; or
- I. Charges for telecommunications and all services and equipment provided to the Village.

**PUBLIC RIGHT OF WAY:** Any Municipal street, alley, water or public right of way dedicated or commonly used for utility purposes, including utility easements wherein the Village has acquired the right and authority to locate or permit the location of utilities consistent with telecommunications facilities. "Public right of way" shall not include any real or personal village property that is not specifically described in the previous sentence and shall not include village buildings and other structures or improvements, regardless of whether they are situated in the public right of way.

**RETAILER MAINTAINING A PLACE OF BUSINESS IN THE STATE (Or Any Like Term):** Means and includes any retailer having or maintaining within the State of Illinois, directly or by a subsidiary, an office, distribution facilities, transmission facilities, sales office, warehouse, or other place of business, or any agent or other representative operating within this State under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this State.

**SALE OF TELECOMMUNICATIONS AT RETAIL:** The transmitting, supplying, or furnishing of telecommunications and all services rendered in connection therewith for a consideration, other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, when the gross charge made by one such corporation to another such corporation is not greater than the gross charge paid to the retailer for their use or consumption and not for sale.

**SERVICE ADDRESS:** The location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received. If this is not a defined location, as in the case of wireless telecommunications, paging systems, maritime systems, air-to-ground systems, and the like, "service address" shall mean the location of the customer's primary use of the telecommunications equipment as defined by the location in Illinois where bills are sent.

**TELECOMMUNICATIONS:** Includes, but is not limited to, messages or information transmitted through use of local, toll, and wide area telephone service, channel services, telegraph services, teletypewriter service, computer exchange services, private line services, specialized mobile radio services, or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. Unless the context clearly requires otherwise, "telecommunications" shall also include wireless telecommunications as hereinafter defined. "Telecommunications" shall not include value added services in which computer processing applications are used to act on the form, content, code, and protocol of the information for purposes other than transmission. "Telecommunications" shall not include purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by him or her to the ultimate retail consumer who originates or terminates the end-to-end communications. Retailer access charges, right of access charges, charges for use of intercompany facilities, and all telecommunications resold in the subsequent provision and used as a component of, or integrated into, end-to-end telecommunications service shall not be included in gross charges as sales for resale. "Telecommunications" shall not include the provision of cable services through a cable system as defined in the Cable Communications Act of 1984 (47 USC section 521 and following) as now or hereafter amended, or cable or other

programming services subject to an open video system fee payable to the Village through an open video system as defined in the Rules of the Federal Communications Commission (47 CDF 76.1550 and following) as now or hereafter amended.

**TELECOMMUNICATIONS PROVIDER:** a) Any telecommunications retailer; and b) any person that is not a telecommunications retailer that installs, owns, operates or controls equipment in the public right of way that is used or designed to be used to transmit telecommunications in any form.

**TELECOMMUNICATIONS RETAILER OR RETAILER OR CARRIER:** Means and includes every person engaged in the business of making sales of telecommunications at retail as defined in this section. The village may, in its discretion, upon application, authorize the collection of the fee hereby imposed by any retailer not maintaining a place of business within this State, who, to the satisfaction of the Village, furnishes adequate security to ensure collection and payment of the fee. When so authorized, it shall be the duty of such retailer to pay the fee upon all of the gross charges for telecommunications in the same manner and subject to the same requirements as a retailer maintaining a place of business.

**WIRELESS TELECOMMUNICATIONS:** Include cellular mobile telephone services, personal wireless services as defined in section 704(C) of the Telecommunications Act of 1996 (Public Law No. 104-104), 42 USC section 332(c)(7), as now or hereafter amended, including all commercial mobile radio services, and paging services.

### **3-9-2 REGISTRATION OF TELECOMMUNICATIONS PROVIDERS**

- A. Every "telecommunications provider" as defined by this chapter shall register with the Village within thirty (30) days after the effective date hereof or becoming a telecommunications provider, whichever is later, on a form to be provided by the Village, provided, however, that any telecommunications retailer that has filed a return pursuant to subsection [3-9-4C](#) of this chapter shall be deemed to have registered in accordance with this section.
- B. Every telecommunications provider who has registered with the Village pursuant to subsection A of this section has an affirmative duty to submit an amended registration form or current return as required by subsection [3-9-4C](#) of this chapter, as the case may be, to the Village within thirty (30) days from the date of the occurrence of any changes in the information provided by the telecommunications provider in the registration form or most recent return on file with the Village.

### **3-9-3 MUNICIPAL TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE FEE**

- A. A village telecommunications infrastructure maintenance fee is hereby imposed upon all telecommunications retailers in the amount of six percent (6%) of all gross charges charged by the telecommunications retailer to service addresses within the Village for telecommunications originating or received in the Village.
- B. Upon the effective date of the infrastructure maintenance fee authorized in this chapter, the Village infrastructure maintenance fee authorized hereunder shall be the only fee or compensation for the use of all public rights of way within the Village by telecommunications retailers. Imposition of the infrastructure maintenance fee provided under this chapter does not, however, serve as a limitation on the levying of any taxes or imposition of any fees otherwise authorized by law.
- C. The village telecommunications infrastructure maintenance fee authorized by this section shall be collected, enforced, and administered as set forth in section [3-94](#) of this chapter.

**3-9-4 COLLECTION, ENFORCEMENT, AND ADMINISTRATION**

- A. **Retailer to Collect:** A telecommunications retailer shall charge to and collect from each customer an additional charge in an amount equal to the Village infrastructure maintenance fee attributable to that customer's service address.
- B. **Remittance:** Unless otherwise approved by the Village the infrastructure maintenance fee shall be remitted by the telecommunications retailer to the Village not later than the last day of the month subsequent to the month in which a bill is issued to the customer; provided, however, that the telecommunications retailer may retain an amount not to exceed two percent (2%) of the Village infrastructure maintenance fee collected by it to reimburse itself for expenses incurred in accounting for and remitting the fee.
- C. **Return:** Remittance of the municipal infrastructure maintenance fee to the Village shall be accompanied by a return, in a form to be prescribed by the Village, which shall contain such information as the Village may reasonably require.
- D. **Constitutes A Debt:** Any infrastructure maintenance fee required to be collected pursuant to this chapter and any such infrastructure maintenance fee collected by such telecommunications retailer shall constitute a debt owed by the telecommunications retailer to the Village. The charge imposed under subsection A of this section by the telecommunications retailer pursuant to this chapter shall constitute a debt of the purchaser to the telecommunications retailer who provides such services until paid and, if unpaid, is recoverable at law in the same manner as the original charge for such services.
- E. **Overpayment As Credit:** If it shall appear that an amount of infrastructure maintenance fee has been paid that was not due under the provisions of this chapter, whether as a result of a mistake of fact or an error of law, then such amount shall be credited against any infrastructure maintenance fee due, or to become due, under this chapter, from the telecommunications retailer who made the erroneous payment; provided, however, the Village may request, and telecommunications retailer shall provide, written substantiation for such credit. However, no claim for such credit may be made more than three (3) years after the date of the erroneous payment unless: 1) the credit is used only to offset a claim of underpayment made by the Village within the applicable statutory period of limitations; and 2) the credit derives from an overpayment made by the same telecommunications retailer during the applicable statutory period of limitations.
- F. **Not Included In Tax Base:** Amounts paid under this chapter by telecommunications retailers shall not be included in the tax base under any of the following acts as described immediately below:
  - 1. "Gross charge" for purposes of the telecommunications excise tax act;
  - 2. "Gross receipts" for purposes of the municipal utility tax as prescribed in section 8-11-2 of the Illinois municipal code;
  - 3. "Gross charges" for purposes of the municipal telecommunications tax as prescribed in section 8-11-17 of the Illinois municipal code;
  - 4. "Gross revenue" for purposes of the tax on annual gross revenue of public utilities prescribed in section 2-202 of the Public Utilities Act Right To Audit: The village shall have the right, in its discretion, to audit the books and records of all telecommunications retailers subject to this chapter to determine whether the telecommunications retailer has properly accounted to the Village for the Village infrastructure maintenance fee. Any underpayment of the amount of the Village

infrastructure maintenance fee due to the Village by the telecommunications retailer shall be paid to the Village plus five percent (5%) of the total amount of the underpayment determined in an audit, plus any costs incurred by the Village in conducting the audit, in an amount not to exceed five percent (5%) of the total amount of the underpayment determined in an audit. Said sum shall be paid to the Village within twenty one (21) days after the date of issuance of an invoice for same. Additional Regulations: The village or its designee may promulgate such further or additional regulations concerning the administration and enforcement of this chapter, consistent with its provisions, as may be required from time to time and shall notify all telecommunications retailers that are registered pursuant to section [3-9-2](#) of this chapter of such regulations. *Revised: 5/8/1*

### **3-9-5 COMPLIANCE WITH OTHER LAWS**

Nothing in this chapter shall excuse any person or entity from obligations imposed under any law, including, but not limited to:

- A. Generally applicable taxes;
- B. Standards for construction on, over, under, or within, use of or repair of the public rights of way, including standards relating to freestanding towers and other structures upon the public rights of way, as provided;
- C. Any liability imposed for the failure to comply with such generally applicable taxes or standards governing construction on, over, under, or within, use of or repair of the public rights of way; and
- D. Compliance with any ordinance or provision of this code concerning uses or structures not located on, over, or within the right of way.

### **3-9-6 EXISTING FRANCHISES AND LICENSES**

Any franchise, license, or similar agreements between telecommunications retailers and the Village entered into before the effective date hereof regarding the use of public rights of way shall remain valid according to and for their stated terms except for any fees, charges or other compensation to the extent waived.

### **3-9-7 PENALTIES**

Any telecommunications provider who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this chapter shall be subject to fine in accordance with the general penalty provisions contained in section 1-4-1 of this code

### **3-9-8 ENFORCEMENT**

Nothing in this chapter shall be construed as limiting any additional or further remedies that the Village may have for enforcement of this chapter.

### **3-9-9 SEVERABILITY**

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

### **3-9-10 CONFLICT**

This chapter supersedes all chapters or parts of chapters adopted prior hereto which are in conflict herewith, to the extent of such conflict.

### **3-9-11 WAIVER AND FEE IMPLEMENTATION**

- A. The village hereby waives all fees, charges, and other compensations that may accrue, after the effective date of the waiver, to the Village by a telecommunications retailer pursuant to any existing village franchise, license, or similar agreement with a telecommunications retailer during the time the Village imposes the telecommunications infrastructure maintenance fee. This waiver shall only be effective during the time the infrastructure maintenance fee provided for in this chapter is subject to being lawfully imposed on the telecommunications retailer and collected by the telecommunications retailer from the customer.
- B. The village clerk shall send a notice of the waiver by certified mail/return receipt requested to each telecommunications retailer with whom the Village has a franchise.
- C. The village infrastructure maintenance fee provided for in this chapter shall become effective and imposed on the first day of the month not less than ninety (90) days after the Village provides written notice by certified mail to each telecommunications retailer with whom the Village has an existing franchise, license or similar agreement that the Village waives all compensation under such existing franchise, license, or similar agreement during such time as the fee is subject to being lawfully imposed and collected by the retailer and remitted to the Village. The infrastructure maintenance fee shall apply to gross charges billed on or after the effective date as established in the preceding sentence.

## CHAPTER 10

### CABLE AND VIDEO SERVICE PROVIDERS

#### ARTICLE A. CABLE/VIDEO SERVICE PROVIDER FEE AND PEG ACCESS SUPPORT FEE

##### 3-10A-1 DEFINITIONS

As used in this article, the following terms shall have the following meanings:

CABLE SERVICE: That term as defined in 47 USC section 522(6).

COMMISSION: The Illinois commerce commission.

GROSS REVENUES: All consideration of any kind or nature, including, without limitation, cash, credits, property, and in-kind contributions received by the holder for the operation of a cable or video system to provide cable service or video service within the holder's cable service or video service area within the Village.

A. Gross revenues shall include the following:

1. Recurring charges for cable or video service.
2. Event based charges for cable service or video service, including, but not limited to, pay per view and video on demand charges.
3. Rental of set top boxes and other cable service or video service equipment.
4. Service charges related to the provision of cable service or video service, including, but not limited to, activation, installation, and repair charges.
5. Administrative charges related to the provision of cable service or video service, including, but not limited to, service order and service termination charges.
6. Late payment fees or charges, insufficient funds check charges, and other charges assessed to recover the costs of collecting delinquent payments.
7. A pro rata portion of all revenue derived by the holder or its affiliates pursuant to compensation arrangements for advertising or for promotion or exhibition of any products or services derived from the operation of the holder's network to provide cable service or video service within the Village. The allocation shall be based on the number of subscribers in the Village divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement.
8. Compensation received by the holder that is derived from the operation of the holder's network to provide cable service or video service with respect to commissions that are received by the holder as compensation for promotion or exhibition of any products or services on the holder's network, such as a "home shopping" or similar channel, subject to subsection A9 of this definition.

9. In the case of a cable service or video service that is bundled or integrated functionally with other services, capabilities, or applications, the portion of the holder's revenue attributable to the other services, capabilities, or applications shall be included in the gross revenue unless the holder can reasonably identify the division or exclusion of the revenue from its books and records that are kept in the regular course of business.
  10. The service provider fee permitted by 220 ILCS 5/21-801(b).
- B. Gross revenues do not include any of the following:
1. Revenues not actually received, even if billed, such as bad debt, subject to 220 ILCS 5/21-801(c)(1)(vi).
  2. Refunds, discounts, or other price adjustments that reduce the amount of gross revenues received by the holder of the state issued authorization to the extent the refund, rebate, credit, or discount is attributable to cable service or video service.
  3. Regardless of whether the services are bundled, packaged, or functionally integrated with cable service or video service, any revenues received from services not classified as cable service or video service, including, without limitation, revenue received from telecommunication services, information services, or the provision of directory or internet advertising, including yellow pages, white pages, banner advertisement, and electronic publishing or any other revenues attributed by the holder to noncable service or nonvideo service in accordance with the holder's books and records and records kept in the regular course of business and any applicable laws, rules, regulations, standards, or orders.
  4. The sale of cable services or video services for resale in which the purchaser is required to collect the service provider fee from the purchaser's subscribers to the extent the purchaser certifies in writing that it will resell the service within the Village and pay the fee permitted by 220 ILCS 5/21-801(b) with respect to the service.
  5. Any tax or fee of general applicability imposed upon the subscribers or the transaction by a city, state, federal, or any other governmental entity and collected by the holder of the state issued authorization and required to be remitted to the taxing entity, including sales and use taxes.
  6. Security deposits collected from subscribers<sup>7</sup>. Amounts paid by subscribers to "home shopping" or similar vendors for merchandise sold through any home shopping channel offered as part of the cable service or video service.
- C. Revenue of an affiliate of a holder shall be included in the calculation of gross revenues to the extent the treatment of the revenue as revenue of the affiliate rather than the holder has the effect of evading the payment of the fee permitted by 220 ILCS 5/21-801(b) which would otherwise be paid by the cable service or video service.

HOLDER: A person or entity that has received authorization to offer or provide cable or video service from the commission pursuant to 220 ILCS 5/21-401. PEG: Public, education and governmental.

**PEG ACCESS SUPPORT FEE:** The amount paid under this article and 220 ILCS 5/21801(d) by the holder to the Village for the service areas within its territorial jurisdiction.

**SERVICE:** The provision of "cable service" or "video service" to subscribers and the interaction of subscribers with the person or entity that has received authorization to offer or provide cable or video service from the commission pursuant to 220 ILCS 5/21401.

**SERVICE PROVIDER FEE:** The amount paid under this article and 220 ILCS 5/21-801 by the holder to a village for the service areas within its territorial jurisdiction.

**VIDEO SERVICE:** Video programming and subscriber interaction, if any, that is required for the selection or use of such video programming services, and which is provided through wireline facilities located at least in part in the public right of way without regard to delivery technology, including internet protocol technology. This definition does not include any video programming provided by a commercial mobile service provider defined in 47 USC section 332(d) or any video programming provided solely as part of, and via, service that enables users to access content, information, electronic mail, or other services offered over the public internet.

### **3-10A-2 CABLE/VIDEO SERVICE PROVIDER FEE IMPOSED**

- A. **Fee Imposed:** A fee is hereby imposed on any holder providing cable service or video service in the Village.
- B. **Amount of Fee:** The amount of the fee imposed hereby shall be five percent (5%) of the holder's gross revenues.
- C. **Notice To The village:** The holder shall notify the Village at least ten (10) days prior to the date on which the holder begins to offer cable service or video service in the Village.
- D. **Holder's Liability:** The holder shall be liable for and pay the service provider fee to the Village. The holder's liability for the fee shall commence on the first day of the calendar month following thirty (30) days after receipt of the ordinance adopting this article by the holder. The ordinance adopting this article shall be sent by mail, postage prepaid, to the address listed on the holder's application notice sent pursuant to 220 ILCS 5/21-401(b)(6) to the Village.
- E. **Payment Date:** The payment of the service provider fee shall be due on a quarterly basis, forty five (45) days after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.
- F. **Exemption:** The fee hereby imposed does not apply to existing cable service or video service providers that have an existing franchise agreement with the Village in which a fee is paid.
- G. **Credit for Other Payments:** An incumbent cable operator that elects to terminate an existing agreement pursuant to 220 ILCS 5/21-301(c) with credit for prepaid franchise fees under that agreement may deduct the amount of such credit from the fees that operator owes under subsection B of this section.

### **3-10A-3 PEG ACCESS SUPPORT FEE IMPOSED**

- A. PEG Fee Imposed: A PEG access support fee is hereby imposed on any holder providing cable service or video service in the Village in addition to the fee imposed pursuant to section [3-10A-2](#) of this article.
- B. Amount Of Fee: The amount of the PEG access support fee imposed hereby shall be one percent (1%) of the holder's gross revenues or, if greater, the percentage of gross revenues that incumbent cable operators pay to the Village or its designee for PEG access support in the Village.
- C. Payment: The holder shall pay the PEG access support fee to the Village or to the entity designated by the Village to manage PEG access. The holder's liability for the PEG access support fee shall commence on the date set forth in subsection [3-10A-2D](#) of this article.
- D. Payment Due: The payment of the PEG access support fee shall be due on a quarterly basis, forty five (45) days after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.
- E. Credit For Other Payments: An incumbent cable operator that elects to terminate an existing agreement pursuant to 220 ILCS 5/21-301(c) shall pay, at the time they would have been due, all monetary payments for PEG access that would have been due during the remaining term of the agreement had it not been terminated pursuant to that section. All payments made by an incumbent cable operator pursuant to the previous sentence may be credited against the fees that that operator owes under subsection B of this section. **3-10A-4 APPLICABLE PRINCIPLES**

All determinations and calculations under this article shall be made pursuant to generally accepted accounting principles.

### **3-10A-5 NO IMPACT ON OTHER TAXES DUE FROM HOLDER**

Nothing contained in this article shall be construed to exempt a holder from any tax that is or may later be imposed by the Village, including any tax that is or may later be required to be paid by or through the holder with respect to cable service or video service. A state issued authorization shall not affect any requirement of the holder with respect to payment of the Village's simplified municipal telecommunications tax or any other tax as it applies to any telephone service provided by the holder. A state issued authorization shall not affect any requirement of the holder with respect to payment of the local unit of government's 911 or E911 fees, taxes or charges.

### **3-10A-6 AUDITS OF CABLE/VIDEO SERVICE PROVIDER**

- A. Audit Requirement: The village will notify the holder of the requirements it imposes on other cable service or video service providers to submit to an audit of its books and records. The holder shall comply with the same requirements the Village imposes on other cable service or video service providers in its jurisdiction to audit the holder's books and records and to recompute any amounts determined to be payable under the requirements of the Village. If all local franchises between the Village and cable operator terminate, the audit requirements shall be those adopted by the Village pursuant to the local government taxpayers' bill of rights act, 50 ILCS 45/1 et seq. No acceptance of amounts remitted should be construed as an accord that the amounts are correct.

- B.** Additional Payments: Any additional amount due after an audit shall be paid within thirty (30) days after the Village's submission of an invoice for the sum. **3-10A-7 LATE FEES/PAYMENTS**

All fees due and payments which are past due shall be governed by ordinances adopted by this village pursuant to the local government taxpayers' bill of rights act, 50 ILCS 45/1 et seq.

## **ARTICLE B. CABLE AND VIDEO CUSTOMER PROTECTION LAW**

### **3-10B-1 CUSTOMER SERVICE AND PRIVACY PROTECTION LAW**

- A. Adoption: The regulations of 220 ILCS 5/70-501 are hereby adopted by reference and made applicable to the cable or video providers offering services within the Village's boundaries
- B. Amendments: Any amendment to the cable and video customer protection law that becomes effective after the effective date of this article shall be incorporated into this article by reference and shall be applicable to cable or video providers offering services within the municipality's boundaries. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this article by reference without formal action by the corporate authorities of the Village.

### **3-10B-2 ENFORCEMENT**

The village does hereby pursuant to law declare its intent to enforce all of the customer service and privacy protection standards of the cable and video protection law with respect to complaints received from residents within the Village.

### **3-10B-3 PENALTIES**

The village, pursuant to 220 ILCS 5/70-501(r)(1), does hereby provide for a schedule of penalties for any material breach of the cable and video protection law by cable or video providers in addition to the penalties provided in the law. The monetary penalties shall apply on a competitively neutral basis and shall be as set forth in the annual fee ordinance schedule contained in section 1-16-3 of this code.

- A. "Material breach" means any substantial failure of a cable or video provider to comply with service quality and other standards specified in any provision of the law.
- B. The village shall give the cable or video provider written notice of any alleged material breaches of the law and allow such provider at least thirty (30) days from the receipt of the notice to remedy the specified material breach.
- C. A material breach, for the purposes of assessing penalties, shall be deemed to occur for each day that a material breach has not been remedied by the cable or video service provider after the notice in subsection B of this section.

### **3-10B-4 CUSTOMER CREDITS**

The village hereby adopts the schedule of customer credits for violations. Those credits shall be as provided for in the provisions of 220 ILCS 5/70-501(s) and applied on the statement issued to the customer for the next billing cycle following the violation or

following the discovery of the violation. The cable or video provider is responsible for providing the credits and the customer is under no obligation to request the credit.

Approved 3/22/12, Revised Amended 6/25/15

## CHAPTER 11

### REGULATION OF CONTRACTORS

#### **3-11-1 CONTRACTOR REGISTRATION**

No person shall engage in the business of any contracting trade without first obtaining a license. The fee for such license shall be set forth in the fee schedule contained in section 3-11-14. Submissions and approval of a Contractor Registration application and proof of current liability insurance in their business name. The fee for such a certificate shall be set forth in the fee schedule contained in section 3-11-7 of this chapter.

#### **3-11-2 GENERAL CONTRACTOR**

No person shall engage in the business of General Contractor within the Village without first having obtained a certificate. The fee for such license shall be as set forth in the fee schedule contained in section [3-11-7](#) of this chapter.

#### **3-11-3 PLUMBING CONTRACTOR**

No person shall engage in the business of plumbing within the Village without first filing proof with the Village Building Commissioner and Code Enforcement Official of a current license issued by the State of Illinois. A Certificate issued by the Village is not required.

#### **3-11-4 ROOFING CONTRACTOR**

No person shall engage in the business of roofing within the Village without first submitting proof of a current license with the State of Illinois. A certificate from the Village is also required. The fee for such license shall be as set forth in the fee schedule contained in section [3-11-7](#) of this chapter.

#### **3-11-5 ELECTRICAL CONTRACTOR**

No person shall engage in the business of electrician within the Village without first submitting proof of current license from an approved jurisdiction. A certificate from the Village is also required. The fee for such license shall be as set forth in the fee schedule contained in section [3-11-7](#) of this chapter.

#### **3-11-6 OTHER CONTRACTOR**

No person shall engage in the business of any contracting trade not otherwise listed in this chapter within the Village without first having obtained a certificate from the Village. The fee for such license shall be as set forth in the fee schedule contained in Section [3-11-7](#)

#### **3-11-7 FEE SCHEDULE**

Every applicant for a certificate under this chapter shall file an application on a form provided by the village clerk and pay an annual registration fee in the amount set forth in

the annual fee ordinance schedule contained in Section 1-16-3 of this code. Each registration must be renewed on an annual basis and payment of the annual fee must accompany the renewal form.

### **3-11-8 HOMEOWNER**

Homeowners may be allowed to do certain projects without a Certificate Of Registration if they actually do the work and occupy the building in Which the work is being done. This must be approved by the Building Department.

**CHAPTER 12**

**REGISTRATION OF BUSINESSES**

**3-12-1 PURPOSE**

- A. It is the purpose of this chapter to provide sufficient information relative to business establishments within the Village to provide better life, health, safety and security services to business establishments, as well as provide a means to facilitate communication between the Village and owners of business establishments.
- B. For the purposes of this Chapter, a “Business Establishment” is any individual, corporation, association, partnership, or any other legal Entity that is engaged in the sale of taxable goods or services within the Village.

**3-12-2 REGISTRATION REQUIRED**

- A. It shall be unlawful for any person to operate a business establishment in the Village without obtaining and maintaining in force a registration certificate in accordance with the provisions of this chapter. Registration certificates issued by the Village will expire on December 31 of each year.
- B. All owners of Business Establishments shall on or before January 1 of each calendar year (“Due Date”) apply for a registration certificate form provided by the Village. The registration form shall include the following information:
  - 1. Name, location, and phone number of the Business Establishment.
  - 2. Owner’s address and emergency telephone number
  - 3. Nature of Business Establishment
  - 4. Hours of operation of Business Establishment
  - 5. Federal employment identification number or Social Security number.
  - 6. Nature of security system, if any, and name and telephone number of company providing the security service.
  - 7. Number of employees of the Business Establishment
  - 8. Form of ownership of the Business Establishment; i.e. individual, Partnership, corporation or other.
  - 9. Name, address and telephone number of the lessor, if applicable.

**3-12-2 [RESERVED]**

**3-12-4 INSPECTION**

Upon receipt of the registration forms and/or payment of required fee from the owner of a Business Establishment, the Village may inspect the Business Establishment for compliance with the applicable provisions of the Village Code. After issuance of a registration certificate, the Village may inspect the Business Establishment as often as it

deems necessary to confirm that the premises is in conformity with the applicable provisions of the Village Code. The Village may deny issuance of a registration certificate or revoke as existing certificate if the premises are not in compliance with the applicable provisions of the Village Code.

**3-12-5 VIOLATIONS**

Any person violating any provision of this chapter shall, upon conviction, be fined a sum not less than \$100 nor more than \$500 for each offense. A separate offense shall be deemed to have been committed on each day in which a violation occurs or continues.

**CHAPTER 13**

**MESSAGE ESTABLISHMENTS AND MESSAGE THERAPISTS**

**3-13-1 ADDITIONAL TERMS DEFINED**

In addition to the terms otherwise defined in this Village Code, for purposes of this Chapter 13, the following words or phrases shall have the meanings ascribed to them below, unless otherwise indicated by the context:

**MESSAGE THERAPIST:** Any person who, for any consideration whatsoever, engages in the practice of massage therapy and is licensed by the Illinois Department of Financial and Professional Regulation.

**LICENSE:** A massage establishment license as provided in this article.

**Massage:** Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft tissues of the body with the hands or with aid of any mechanical, electrical apparatus or appliances or by the application of air, liquid, or vapor bath of any kind with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments, or other similar preparations used in this practice.

**MESSAGE ESTABLISHMENT:** Any establishment having a source of income or compensation derived from the practice of massage as defined in the massage definition above, and which has a fixed place of business where any person engages in, or carries on, or permits to be engaged in or carried on any of the activities or practices of massage as defined in this article.

**PATRON:** An individual who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration therefor.

**PERSON:** Any individual, partnership, association, joint stock company, limited liability company, corporation or combination of individuals of any form, kind or character whatsoever.

**SEXUAL OR GENITAL AREA:** The genitals, pubic area, anus or perineum of any person; or the vulva or breasts of any female.

**3-13-2 LICENSE REQUIRED**

It shall be unlawful for any person, association, firm or corporation to operate a massage establishment in the Village without a valid and current license issued by the Village pursuant to the terms of this Chapter 13. A separate license shall be required for each massage establishment location regardless of whether such multiple facilities are operated by the same person, association, firm or corporation.

**3-13-3 EXEMPTIONS**

The provisions of this article shall not apply and no license shall be required for any units of government, hospitals, nursing homes, and sanitariums or for any individual while engaged in the personal performance of their respective professions provided such individual is holding an unrevoked certificate to practice the healing arts under the laws

of the state, including, but not limited to, physicians, surgeons, chiropractors, osteopaths, physical therapists, nurses, paramedics, state registered athletic licensees who administer athletic related massages in the normal course of training duties or to those working under the direction of any such individuals in any such units of government, hospitals, nursing homes and sanitariums.

### **3-13-4 APPLICATION FOR MASSAGE ESTABLISHMENT LICENSE**

Any person desiring to obtain a license to operate a massage establishment shall make application to the Mayor or his designee on forms provided by the Village. The Mayor or his designee shall have the right to confirm any of the information asked for, or provided in the application, and shall work in conjunction with the Police Department where applicable. Applications shall include, but not limited to, the following:

- A. The name and type of ownership of the business, i.e., whether individual, partnership, limited liability company, corporation, or otherwise.
- B. The name under which the business is to be conducted, including any trade name(s) or assumed business name(s).
- C. The location and description of the premises or place of business which is to be operated under such license as well as all telephone numbers where the business is to be operated.
  1. If a leased premises, a copy of the lease shall be provided. The term of such lease must not end until after the expiration date of the license for which the application is being made.
  2. The name and address of the owner(s) of the premises, and, if said premises is held in trust, the names and addresses of all the owners of the beneficial interest of a trust.
  3. Whether any other activities or business will be conducted at the same location and the physical facilities to be used.
- D. A complete statement of all convictions of the applicant as provided in this section. If the applicant is a corporation, such statement shall include applicant's officers, and directors thereof, and any stockholder or stockholders owning in the aggregate more than 20 percent of the stock of such corporation. If the applicant is a partnership, such statement shall include all general partners, and any limited partner owning more than 20 percent of the aggregate limited partner interest in such partnership. Such listing shall include the following:
  1. Any offense involving sexual misconduct with children or other sex offenses;
  2. A felony based upon conduct or involvement in such business or activity or related or similar business or activity, within the past 11 years;
  3. A felony unrelated to conduct or involvement in such business or activity or related to similar business or activity, but which felony involved the use of a deadly weapon, violations of the Cannabis Control Act or the Controlled Substance Act or violence against another person, including rape, within the past five years; and

4. A misdemeanor or licensing ordinance violation, based upon conduct or involvement in such business or activity or related or similar business or activity, within the past two years.
- E. In the case of an individual, the full name, residence address with zip code, date of birth, gender and a physical description of the applicant including height, weight, color of hair and eyes.
- F. In the case of a partnership, the full name, residence address with zip code, date of birth, gender and a physical description including height, weight, color of hair and eyes of all partners (whether general or limited) and any other persons entitled to share in the profits thereof.
- G. In the case of a limited liability company or corporation, the purpose for which said limited liability company or corporation is organized, the name, residence address, gender and date of birth of all, members and managers of the limited liability company, the directors and officers of the corporation and/or of all persons acting as managers or assistant managers or other persons principally in charge of the operation of the massage establishment situated or to be situated in the village.
- H. The date of formation of the partnership or limited liability company, if a partnership or limited liability company, the date of incorporation, if an Illinois corporation, or the date of becoming qualified under the Illinois Business Corporation Act, 805 ILCS 5/1.01 et seq., to transact business in Illinois, if a foreign corporation.
- I. A description of the proposed massage establishment, other activities or business conducted at the same location, and the physical facilities to be used, with a floor layout diagram of same attached thereto.
- J. A complete list of the names, residence addresses, with zip codes, and dates of birth of all licensed massage therapists engaged in massage at the massage establishment, as well as current copies of the licenses of all licensed massage therapists.
- K. A complete list of the names, residence addresses with zip codes, and dates of birth of managers, assistant managers or other persons principally in charge of the operation of the massage establishment.
- L. The business, occupation, employment of applicant, if an individual, for three (3) years preceding the date of application.
- M. Whether applicant or its duly authorized agent, if not an individual, ever made an application for a license under this article, or a massage business license or similar license to a state or county, city, village or other unit of local government and was denied or not granted such license, and if so, where and when, and the reasons for the denial or why such license was not granted.
- N. Whether a license issued to the applicant or its duly authorized agent, if not an individual, under this article, or a massage business license or similar license issued by any state or county, city or village or other unit of local government, has ever been suspended or revoked and the reasons for the suspension and/or revocation.

- O. Whether the applicant or its duly authorized agent, if not an individual, has ever plead guilty or been found guilty of a violation of any of the provisions of this article or any ordinance of any other Illinois municipality or unit of government which regulates massage establishments or the providing of massages, or any Illinois statute regulating massage establishments or massage therapy. Except in the case of an application for a renewal of a license and fingerprints are already on file for all persons who are required to provide a complete set of fingerprints, the applicant shall submit a complete set of fingerprints with the application. If the applicant is a corporation, partnership or limited liability company, fingerprints must be submitted for all persons acting as managers or assistant managers or other persons principally in charge of the operation of the massage establishment. The owners, partners and principal managers of any other legal entity entitled to do business in the state shall also be fingerprinted. The village may, in its sole discretion, either require the applicant to have his/her fingerprints taken and submitted for processing by the state department of law enforcement state police and direct that the results be sent directly to the village, c/o the chief of police, or the village may require that all such fingerprinting shall be done by the village police department. If the village does the fingerprinting, then the fingerprints shall be submitted to the appropriate state and/or federal agencies for processing as available. The cost of fingerprinting shall be paid by the applicant in addition to any application or license fee.

The applicant shall submit a written authorization for the village, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for a license.

The applicant shall submit a copy of identification which shall include, but shall not be limited to, a driver's license, if any, and two (2) copies of a current portrait photograph of the applicant at least two (2) inches by two (2) inches. The portrait shall include the head and shoulder area with the face forward pose. A new and current portrait shall be required with each renewal application. If the applicant is a corporation, partnership or limited liability company, the identification and the portrait must be submitted for each person acting as a manager or assistant manager or other person principally in charge of the operation of the massage establishment. The village, in its sole discretion, may require that any portrait photograph required by these provisions be taken by the village police department.

The applicant shall submit proof of professional and/or general liability insurance in the minimum amount of one million dollars (\$1,000,000.00) per occurrence.

The applicant shall submit a current copy of any draping protocols, sexual conduct policies or other similar policies and procedures for the proposed massage establishment.

The applicant shall submit such other information, documentation, and identification of the applicant as the village code enforcement official and/or the chief of police shall deem necessary to determine the identity of the applicant or to process the application.

### **3-13-5 APPLICATION PROCESSING**

- A. An application shall not be considered proper or filed until all information and material required of the applicant has been submitted.

- B. Upon receipt of a proper application, the Mayor or his designee, along with the Police Chief or his designee, shall investigate the information contained in the application and shall determine compliance with all applicable laws of the Village. The nature and scope of the investigation shall be within the discretion of the Mayor or his designee and the Police Chief or his designee, and shall include, but is not limited to, a criminal history background check and premises inspection. The applicant for a massage establishment license shall allow the village code enforcement official to inspect the premises and/or review plans for the facility, to ascertain whether the premises and/or planned changes are in conformance with the Village Building Code. In the event plans are submitted prior to construction, a final inspection will be conducted prior to issuance of the license to assure compliance with said Building Code.
- C. The investigation, including any required inspections and background checks, shall be completed within 35 business days after receipt of a proper application. Provided, however, the Mayor or his designee may extend this investigation period an additional period, not to exceed an additional 15 business days, upon a finding that such additional period is needed to properly complete the investigation. Provided, whenever such extension period is invoked, written notice shall be provided to the applicant along with the specific reasons for such extension.
- D. If, within 15 business days following completion of the investigation, it is determined that the applicant and premises are in compliance with the applicable laws of the Village and the State, the license shall be issued.
- E. If, within 15 business days following completion of the investigation it is determined that the premises are not in compliance with the applicable laws of the Village and the State, the applicant shall be notified in writing that the license has been denied, setting forth the reasons therefore, and advising the applicant of his or her right to appeal pursuant to these regulations. Unless a timely appeal has been filed as provided herein, such denials shall be final and effective upon service of the notice on the applicant. The fee paid by the applicant shall be returned, less \$50.00 which will be retained as the processing fee.

### **3-13-6 MESSAGE ESTABLISHMENT FACILITIES AND OPERATING REQUIREMENTS**

No license, or renewal thereof, shall be issued to conduct a massage establishment unless an inspection, conducted by the village code enforcement official, or his designee, confirms that the facility complies with the following minimum requirements. Renewal of a license may require re-inspections by the village code enforcement official or his designee.

- A. All walls, ceilings, floors, steam rooms and other physical facilities shall be kept in good repair, and maintained in a clean and sanitary condition.
- B. No massage establishment shall be located on any premises for which a license to sell alcoholic liquor has been issued.
- C. The massage establishment premises shall be in compliance with applicable codes and ordinances of the Village, including, but not limited to, zoning, building, fire and life safety codes.

- D. When any license has been revoked for cause, no license shall be granted to any person for the period of one year thereafter for the conduct of a massage establishment in the premises described in the revoked license.
- E. Rooms used for toilets, tubs, steam baths and showers shall be made waterproof with approved waterproofed materials and shall be installed in accordance with the Illinois Plumbing Code and the village building code. Plumbing fixtures shall be installed in accordance with the Illinois Plumbing Code and village plumbing vcode.
  - 1. Steam rooms and shower compartments shall have waterproof floors, walls and ceilings approved by the village.
  - 2. Floors of wet and dry heat rooms shall be adequately pitched to one (1) or more floor drains properly connected to the sewer. (Exception: Dry heat rooms with wooden floors need not be provided with pitched floors and floor drains).
  - 3. A source of hot water must be available within the immediate vicinity of dry and wet heat rooms to facilitate cleaning.
- F. The premises shall have adequate equipment for disinfecting and sterilizing nondisposable instruments and materials used in administering massages. Such nondisposable instruments and materials shall be disinfected after use on each patron.
- G. All massage establishments shall be equipped with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in a closed cabinets. No common use of towels or linens shall be permitted. All soiled linens, towels and other materials shall be kept in properly covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage areas. Clean and sanitary towels and linens shall be provided for each client receiving massage services.
- H. Restrooms, including toilet facilities, shall be provided in convenient locations. At a minimum, a single unisex toilet facility shall be provided on an establishment when less than five (5) (in the aggregate) employees and patrons in any numerical combination of males and females are reasonably calculated to be on the premises at the same time. When five (5) or more (in the aggregate) employees and patrons in any numerical combination of males and females are reasonably calculated to be on the premises at the same time, the following shall be applicable:

Separate restrooms, including toilet facilities, shall be provided for males and females. Restrooms shall be designated as to the gender accommodated therein.
- I. Adequate dressing or locker facilities shall be provided for the patrons to be served at any given time. In the event male and female patrons are to be served simultaneously, segregated dressing, locker and massage room facilities shall be provided.
- J. A washbasin with both hot and cold running water shall be installed in either the restroom or a vestibule. Washbasins shall be provided with soap and a dispenser and with sanitary towels.

- K. All electrical equipment shall be installed in accordance with the requirements of the village electrical code.
- L. Every portion of the massage establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.
- M. Price rates for all massage services shall be prominently posted and/or pricing sheets shall be available for review to all prospective patrons, at the front desk and/or in the massage treatment areas. A placard must also be posted and visible in the massage treatment area or in a location available to all prospective patrons advising: "No massage services other than those posted or listed on a pricing sheet available for customer review shall be provided for any compensation whatsoever. There shall be no bargaining or solicitation for massage services between patrons, massage therapists, and/or employees."
- N. All employees, including licensed massage therapists, shall be clean and shall be fully covered by wearing clean, nontransparent outer garments, completely covering the sexual and genital areas.
- O. No massage establishment granted a license under the provisions of this article shall place, publish or distribute or cause to be placed, published [or] distributed any advertisement, picture, or statement which is known or through the exercise of reasonable care should be known to be false, deceptive or misleading in order to induce any person to purchase or utilize any massage services.
- P. Eating in the massage work areas shall not be permitted. Animals, except seeing eye dogs, shall not be permitted in the massage work areas.
- Q. The sexual or genital areas of patrons shall be completely covered at all times when in the presence of an employee of the massage establishment or any licensed massage therapist.
- R. Each licensed massage therapist shall wash his or her hands in hot running water with proper disinfectant before administering a massage to each patron.
- S. No massage establishment licensee under the provisions of this article shall knowingly permit any person to remain in or upon the licensed premises who commits any act of public indecency or obscenity as provided in this Code or as provided in the Illinois Criminal Code.
- T. No person under the age of 18 shall be permitted to come or remain on the area where the massage activity is taking place on the licensed premises.
- U. Oils, creams, lotions or other preparations used in administering massages shall be kept in clean, closed containers or cabinets and shall be dispensed in unit doses so that bulk containers are not contaminated between clients.
- V. Each massage establishment shall operate in compliance with all applicable local, state and federal laws and regulations, including, but not limited to, any such laws and regulations relating to discrimination based on race, color, religion, national origin, gender, disability or age.
- W. At all times during the operation of a massage establishment, while massage activities are taking place, there shall be present a manager, assistant manager or other persons principally in charge of the operations of the licensee, and a

licensed massage therapist, each of whom shall not be less than eighteen (18) years of age. A licensed massage therapist may also serve as a manager, assistant manager or person principally in charge.

- X. No massage establishment shall be open for business or in operation, nor provide massage services, between the hours of 9:00 p.m. and 7:00 a.m., except to complete massage services scheduled and initiated prior to 8:30 p.m.
- Y. No person shall employ as a massage therapist any person unless said person is a properly licensed massage therapist pursuant to Illinois law and the Massage Licensing Act, 225 ILCS 57/1 et seq.
- Z. The massage business license and the massage therapy license of each and every licensed massage therapist employed in the massage establishment shall be displayed in an open and conspicuous place in the massage establishment or available upon request.
- AA. No person granted a license hereunder shall operate the massage establishment under a name not specified in the license, nor shall the business be conducted under any different designation or at any location not specified in the massage establishment license.

**3-13-7 PROHIBITED ACTS AND CONDITIONS**

- A. The sexual or genital areas of patrons must be covered by non-transparent towels, clothing, cloths or undergarments at all times while in a massage establishment, except while said patrons are alone in a washroom, bathroom, shower or clothes-changing area, or except when said patron is receiving lymphatic drainage treatment from a massage therapist having a minimum of 20 hours of training in such treatment;
- B. It shall be unlawful for any person, in a massage establishment, to knowingly place his or her hand upon, to touch with any part of his or her body, to fondle in any manner, or to massage, a sexual or genital area or part of any other person;
- C. It shall be unlawful for any individual, in a massage establishment, to knowingly allow a patron of the massage establishment to place his or her hand or hands upon, to touch with any part of his or her body, to fondle in any manner, or to massage, a sexual or genital area or part of any licensed massage therapist or any other employee of the massage establishment.
- D. It shall be unlawful for any individual, in a massage establishment, to expose his or her sexual or genital area or part, or any portion thereof, to any other individual.
- E. It shall be unlawful for any individual, while in the presence of any other individual in a massage establishment, to fail to conceal with a fully opaque covering, the sexual or genital area or part of his or her body.
- F. It shall be unlawful for any agent, employee or representative of a massage establishment, while in the presence of a patron in the massage establishment, to wear clothing that is not modest, professional and appropriate for street wear.

- G. It shall be unlawful for any individual owning, operating, or managing a massage establishment, to knowingly cause, allow or permit in or about such massage establishment any agent, employee, or any other individual under his control or supervision to perform any such acts deemed to be unlawful by the provisions in subsections (B), (C), (D), (E), and (F) of this subsection.
- H. No person shall administer a therapeutic massage to a patron if the massage therapist has a skin fungus, skin infection, skin inflammation or skin eruption; unless a physician duly licensed by the State of Illinois certifies in writing that such massage therapist may safely administer a massage and prescribing the condition thereof;
- I. No employee or operator shall administer a therapeutic massage to a patron exhibiting any skin fungus, skin infection, skin inflammation or skin eruption; unless a physician duly licensed by the State of Illinois certifies in writing that such person may be safely massaged and prescribing the conditions thereof;
- J. It shall be unlawful for any person to advertise themselves as a massage therapist without having a valid massage therapist license;
- K. No massage establishment licensee shall employ as a massage therapist any person unless said person has a valid State massage therapy license;
- L. No person shall sell, give, dispense, provide, keep or consume, or cause to be sold, given, dispensed, provided, kept or consumed, any alcoholic beverage on the licensed premises; and
- M. It shall be unlawful for any person who holds a license to operate a massage establishment within the village to directly or indirectly through its employees fail to comply with any of the conditions and regulations set forth in this article.

**13-13-8      LIMITATION ON ISSUANCE AND REVIEW OF LICENSE**

No massage establishment license shall be issued or renewed under the following circumstances:

- A. To an applicant who has been convicted of the following criminal, misdemeanor or felony offenses:
  - 1. Any offense involving sexual misconduct with children or sex offenses;
  - 2. Any offense based upon conduct or involvement in such business or activity or related or similar business or activity, within the past 10 years;
  - 3. Any offense which involved the use of a deadly weapon, violations of the Cannabis Control Act or the Controlled Substance Act or violence against another person, including rape, within the past five years; or
  - 4. Any offense or licensing ordinance violation, based upon conduct or involvement in such business or activity or related or similar business or activity, within the past two years;
- B. To an applicant whose license issued hereunder has previously been revoked for cause;

- C. To an applicant who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application;
- D. To an applicant under the age of 18 years of age;
- E. To an applicant where grounds for revocation exist as provided hereunder;
- F. To an applicant who is not a United States citizen or has status as a permanent resident alien or a valid work permit; or
- G. Under the following circumstances:
  - 1. To a partnership, if any general partner thereof, or any limited partner owning more than 20 percent of the aggregate limited partner interest in such partnership, would not be eligible to receive a license hereunder;
  - 2. To a corporation, if any officer or director, or any stockholder or stockholders owning in aggregate more than 20 percent of the stock of such corporation, would not be eligible to receive a license hereunder;
  - 3. To a corporation unless it is incorporated in Illinois, or unless it is a foreign corporation which is qualified under the Business Corporation Act of 1983 to transact business in Illinois;
  - 4. To any applicant whose place of business is conducted by a manager unless the manager possesses the same qualifications required by the licensee; or
  - 5. To any applicant who is not a beneficial owner of the business to be operated by the licensee.

### **3-13-9 LICENSE FEES AND PERIOD OF LICENSE**

Massage establishment licenses are issued and renewed effective May 1 of each year and are valid for one (1) year. The license fee shall be as referenced in Section 1-16-3, Schedule of Fees, Fines, and Penalties, Title 3. All fees shall be paid upon submission of the application and no proration of fees shall apply. [Updated 4/08/2021](#)

### **3-13-10 REVOCATION OR SUSPENSION OF A LICENSE**

- A. No license shall be revoked, suspended or refused until the licensee has been provided with written notice. Said notice shall be delivered personally or by leaving such notice at the place of business or residence of the licensee in the custody of the manager or other employee or person 18 years of age or older. In the event the licensee cannot be found, and delivery of such notice cannot be otherwise made in the manner herein provided, a copy of such notice shall be sent by certified mail, postage prepaid, addressed to the licensee at the licensee's place of business or residence at least 7 days prior to the date of any required hearing and a copy posted on the door of the premises.
- B. Suspension. Any license issued for a massage establishment may be suspended by the Mayor for a period not to exceed thirty (30) days upon written notice provided to the licensee, which notice shall state a basis or charge(s). The notice shall be provided to licensee in the same manner provided in subsection

(A) of this section 3-13-10. The licensee may request in writing a hearing before the Mayor within ten (10) days of notice being provided to licensee. If a written request for a hearing is not made within ten (10) days of such notice, the Mayor may suspend any license for a period not to exceed thirty (30) days for any of the reasons hereinafter set forth in the provisions of this Chapter 13. Upon receiving a timely written request therefore, the Mayor shall conduct the hearing and may thereafter suspend a license for a period of time not to exceed thirty (30) days if the Mayor finds that any of the provisions of this article are violated or any employee of the licensee, including a licensed massage therapist, is engaged in any conduct at licensee's place of business which violates any of the provisions of this article or any other ordinances of the village relating to the license, the licensed premises, or any state law, or where any applicant has committed any fraud, misrepresentation or made a false statement on an application for a license under this article or in any case where the licensee refuses to permit any duly authorized police officer or Code Enforcement Official of the village to inspect the premises or the operations therein, or the failure or refusal of the licensee to pay any fine, penalty or charge owed to the village, or in the event that the licensee would not now qualify for the issuance of a license or the renewal thereof. The licensee shall be deemed to have actual or constructive knowledge of any violations hereinabove set forth if they occur on the licensed premises by any person(s) acting as an agent or otherwise receiving compensation. Such license may also be suspended by the Mayor upon the recommendations of the Village Code Enforcement Official that such business is being managed, conducted, or maintained without regard for the public health or health of patrons or without due regard to proper sanitation or hygiene. The licensee shall be permitted to present any relevant evidence bearing on the alleged violations set forth in the notice.

Any decision of the Mayor to suspend a license may be appealed to the Village Board by the licensee by a request in writing therefore made to the Village Board within ten (10) days of the issuance by the Mayor any order of suspension. The Village Board shall review the record of the hearing held before the Mayor if any was held or if no hearing was held, the basis for such order of suspension, and based upon such review shall make a decision to either affirm or reverse the decision of the Mayor to suspend the license. If the Village Board decides to affirm the decision to suspend the license, it may also modify the term of the suspension provided that in no event shall the suspension exceed thirty (30) days. Any suspension ordered by the provisions hereof shall be stayed until all administrative appeals made to officials of the village as provided herein (and not including any appeal of a decision of a village official made to any court of competent jurisdiction) have been concluded. The decision of the Village Board to affirm or reverse a suspension shall be final and subject to judicial review only by a court of competent jurisdiction to the extent otherwise provided by law.

- C. Revocation. Any license issued for a massage establishment may be revoked by the village code enforcement official for any of the reasons hereinabove set forth in subsection (B) of this section 3-13-10 upon written notice to the license holder, which notice shall state a basis or charge. The license may also be revoked for a failure to maintain a current registration certificate pursuant to section 3-12-1, *et al.*, and for a violation of other Village ordinances. The notice shall be provided to licensee in the same manner as set forth in subsection (A) of this section 3-13-10. The licensee may request a hearing before the Mayor by written request within ten (10) days of being provided with notice. If a written request for a hearing is not made within ten (10) days of the service date, the Mayor shall determine whether or not to revoke any license as hereinafter provided. Upon receiving a timely

request made therefore, the Mayor shall conduct a hearing. The licensee shall be permitted to present any relevant evidence bearing on the alleged violations set forth in the notice. After the Mayor shall render a decision whether or not to revoke the license held by the licensee.

- D. The Mayor may revoke a license for any of the reasons hereinabove set forth in this Chapter 13 and shall revoke a license if he determines that any one (1) or more of the following have occurred:
1. A licensee has violated or is not in compliance with the provisions of this Chapter and the license has been suspended within the preceding twenty-four (24) months.
  2. A licensee has knowingly allowed a violation any provision of this Chapter or prostitution, as defined by the Illinois Criminal Code, on the premises.
  3. A licensee knowingly conducted or allowed to be conducted massage activities in the village during a period of time when the licensee's license was suspended.
  4. On two (2) or more occasions within a twenty-four-month period, a person or persons committed a violation of the provisions of this Chapter which substantially occurred in or on a licensed premises, and the person or persons were employees of the licensee at the time the violations were committed.
  5. A licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, bestiality, prostitution, or flagellation to occur in or on the licensed premises.
  6. There is no licensed massage therapist employed by the licensee or otherwise engaged or committed to provide massage services on the licensed premises.
  7. A licensee does not now qualify for the issuance of a license or the renewal thereof.
  8. A licensee or its authorized agent knowingly advertises for the providing of services within the massage establishment which are unlawful.
- E. Any decision of the Mayor to revoke a license may be appealed to the Village Board by the licensee by a request in writing therefor made to the Village Board within ten (10) days of the issuance by the Mayor of any order to revoke a license. The Village Board shall review the record of the hearing held before the Mayor, if any was held, or if no hearing was held, the basis for such order to revoke and based upon such review shall make a decision to either affirm or reverse the decision of the Mayor to revoke the license. Any order to revoke a license shall be stayed until all administrative appeals made to officials of the village as provided herein (and not including any appeal of a decision of a village official made to any court of competent jurisdiction) have been concluded. The decision of the Village Board shall be final and subject to judicial review only by a court of competent jurisdiction to the extent otherwise provided by law.
- F. Any licensee whose license has been revoked is barred from applying for a new license for a minimum period of one (1) year from the date of revocation.

Any suspension or revocation of the license, if ordered, shall not preclude prosecution and imposition of any other penalties provided for the violation of other applicable provisions of this article or other ordinances of the village.

**3-13-11 INSPECTION OF MASSAGE ESTABLISHMENTS**

Whenever inspections of the premises used for or in connection with the operation of a licensed massage establishment are provided for or required by this article, or any ordinance of the village or are reasonably necessary to assure compliance with the provisions of any ordinance or regulation of the village, or to detect violations thereof, it shall be the duty of the licensee or the person in charge of the premises to admit thereto for the purpose of making the inspection any officer or employee of the village who is duly authorized to make such inspection at any reasonable time that such admission or entry is requested. Each such inspection shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any licensee to fail to allow such inspection officer(s) access to the premises or to hinder such officer(s) in any manner.

**3-13-12 TRANSFER-CHANGES IN OWNERSHIP OR MANAGEMENT**

- A. Any license issued pursuant to this article shall be applicable only to the specific licensee and location designated, and may not be sold, transferred, or otherwise assigned. Notwithstanding the foregoing, if the licensee remains the same and a request is made to designate and substitute a different location, the village code enforcement official may approve such new location upon submission of proof that such location is in compliance with all of the provisions of this article. A fee of fifteen dollars (\$15.00) shall be required for processing a request to change the location of the massage establishment.
- B. A transfer in the ownership or control of a massage establishment shall constitute a change in the licensee and the existing license shall be deemed surrendered and extinguished. A new application for license shall be filed and processed as provided in this article prior to such transfer taking effect. Any transfer in the ownership or control of a massage establishment in violation of this article shall constitute the operation of an unlicensed massage establishment.
- C. Notice shall be provided prior to any change of the designated manager conducting business for the massage establishment licensee. The new manager must be qualified to operate the massage establishment as provided in this article. The licensee shall, not less than ten (10) business days before such change is to take effect, give the village code enforcement official notice of such change. The notice shall include any information concerning the new manager which is required in this article.

**3-13-13 PUBLIC NUISANCE**

Any location used as a massage establishment in violation of this article is hereby declared to be a nuisance.

**3-13-14 PENALTY FOR VIOLATION**

Any person, corporation, firm or partnership found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of these regulations shall be punished by a fine of not less than \$400.00 nor more than \$1,000.00 for each

offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. In addition to any penalty, a licensee violating any provision herein may be subject to having the license revoked, suspended or not renewed.

**3-13-15 APPLICATION TO EXISTING MASSAGE ESTABLISHMENTS**

The owner of any massage establishment which was in operation within the village prior to the effective date of the ordinance from which this article derives shall submit a completed application for a license to the Mayor, as required by this article, within forty-five (45) days of the effective date of this Chapter. In the event that such license is granted, such massage establishment may only be operated, following the granting of such license, in full compliance with the provisions of this article. In the event that such license is denied, or in the event that the owner of a massage establishment fails to submit a completed application within said forty-five-day period, the massage establishment shall cease all operations effective on the earlier of the third day following the date on which the Mayor mails notification of the denial of the license, or the forty-sixth day following the effective date of this article in the event that a completed application is not filed ("the termination date") in the event that the massage establishment continues to operate following the termination date, such continued operation shall be deemed to be in violation of the provisions of this article.

**CHAPTER 14****FOOD TRUCK VENDORS****3-14-1 FOOD TRUCK VENDORS DEFINED.**

Any person or business that prepares or serves any food in the Village from a vehicle.

**3-14-2 SPECIAL EVENT DEFINED**

An event so designated by the Village Board and held on public property that has a defined and limited duration, is open to viewing or participation of the general public or involves a large gathering of people outside of normal operations, and occurs once or only on designated days of the year. Examples of special events include, but are not limited to: carnivals, festivals, parades, open-air gatherings, and athletic events such as 5K run/walks, bicycle races or organized rides, or triathlons, or any other event that requires Village Board approval or designation.

**3-14-3 PERMIT REQUIRED**

- A. Each food truck requires a separate Village issued permit.
- B. Each permit shall be valid for one truck at one location. Trucks requesting to operate on multiple properties require a separate permit for each property.
- C. Each food truck permit will be valid through December 31, of the year issued.
- D. The fee for each food truck permit shall be \$50 per special event and paid at issuance; provided, however, ice cream truck vendors shall pay \$50 per year for sale of ice cream on the roads of the Village during the year and not at special events.

**3-14-4 CONDITIONS OF APPROVAL**

No Food Truck Vendor shall operate within the Village without compliance with all these regulations in this Chapter 14 and all food trucks permits are subject to the following conditions:

- A. Food trucks shall only operate on the property for which it is permitted.
- B. Food trucks may only operate during the hours designated by the permit.
- C. The food truck's vehicle license, insurance and Illinois business tax (IBT) number shall be provided with the completed application.
- D. Proof of Lake or McHenry County Health Department approval must be provided with the completed application prior to issuance of any food truck permit.
- E. A fire extinguisher of minimum size 2A10BC shall be provided in the cooking area. Cooking equipment involving vegetable or animal oils and fats shall be protected by a Class K rated portable fire extinguisher.
- F. Food trucks must provide refuse receptacles and properly dispose of all waste.

- G. No Food Truck vehicle shall be operated unless it is covered by a general liability insurance policy with the Village added as an additional insured party and minimum limits of \$1,000,000 individually and in the aggregate. The permittee shall furnish a copy of such insurance policy prior to the issuance of a permit.
- H. Food trucks must comply with all noise regulations of the Village.
- I. Use of amplified sound or music emanating from the vehicle shall be approved by the Village as part of the permit application.
- J. Food trucks shall be parked on a suitable surface, as determined by the Village building inspector.
- K. Food trucks shall not be allowed to park in fire lanes, handicap parking spaces, or in any other location that will impede traffic flow or create unsafe conditions for pedestrians.

**3-14-5 DENIAL OF LICENSE**

An applicant may be denied a food truck license under any of the following conditions:

- A. The applicant previously failed to comply with the provisions of a food truck permit; or
- B. The applicant has been convicted of a violation of any provision of this chapter.

**3-14-6 REVOCATION OF LICENSE**

The Village may revoke any issued food truck license under any of the following conditions:

- A. The applicant is found in violation of this article, or of the statutes of the State of Illinois or ordinances of the Village relating to the public health, safety, or fire protection;
- B. The applicant has made a false material statement in the application; or
- C. The applicant fails to comply with any of the provisions of this article or the terms or conditions of the permit issued pursuant to this article.

**3-14-7 Food Trucks on Private Property**

The regulations in this Chapter 14 shall not apply to the operation of Food Truck Vendors operating on private property with the agreement of the property owner where the food served is for the exclusive benefit of the property owner or guests or employees of the property owner.