

# TITLE 7

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## Licensing and Regulation

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## Title 7 ► Chapter 1

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# Licensing of Dogs; Regulation of Animals

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### **Sec. 7-1-1      Definitions.**

- (a) **Definitions.** In this Chapter, unless the context or subject matter otherwise requires in specific sections of this Chapter, the following definitions shall be applicable:

- (1) **Animal.** Any live mammalian vertebrate creature or fowl, or any reptile, domestic or wild.
- (2) **Animal Control Authority.** The persons and entities responsible for enforcement of the animal control laws of the Village of Rio, or such person as is designated by the Village Board (law enforcement officer or animal control officer), whether acting alone or in concert with other responsible persons and/or local governmental units.
- (3) **Animal Control Enforcement Officer.** Any individual employed, contracted with, or appointed by the Village of Rio for the purpose of enforcement of this Chapter.
- (4) **At large.** To be off the premises of the owner and not under the control of some person either by leash or otherwise, but a dog, cat or other animal within an automobile of its owner, or in an automobile of any other person with the consent of the owner of said dog, cat or other animal shall be deemed to be upon the owner's premises. The owner of an animal may raise an affirmative defense that any animal not under the control of some person by leash is in fact under control by command or other reasonable means. A dog, cat or other animal is not at large if it is in the presence of its owner, is fully controlled, is trained and is in a public park or other public recreational area. [See Sec. 7-1-6(b) standards for leash control].
- (5) **Bodily Harm.** Significant bodily injury including, but not limited to, a serious bruise, abrasion, or scratch requiring medical attention; laceration requiring stitches; bite mark or puncture; any fracture of a bone; a concussion; a loss or fracture of a tooth; internal injuries; torn ligaments; injury which causes a substantial risk of death or permanent disfigurement; any injury which causes a permanent or protracted loss or impairment of the function of any bodily member or organ; or any temporary loss of consciousness, sight or hearing.
- (6) **Caretaker.** Any person who, in the absence of the owner, temporarily harbors, shelters, keeps or is in charge of a dog, cat or any other domesticated bird, reptile or animal.
- (7) **Cat.** Any feline, regardless of age or sex.
- (8) **Confined.** Restriction of an animal at all times by the owner to an escape-proof building.
- (9) **Cruel.** Causing unnecessary and excessive pain or suffering or unjustifiable injury or death. Additionally, it shall be unlawful to tease, annoy, disturb, molest or irritate an animal that is confined to the owner's property.
- (10) **Dangerous Animal.** Means any of the following:
  - a. Any dog or animal which, when unprovoked, inflicts bodily harm on a person, domestic pet or animal on public or private property.
  - b. Any dog or animal which, when unprovoked, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the dog or animal are off the property of the animal's owner or caretaker. Such behavior includes situations where the dog or animal repeatedly

- chases or approaches persons in a menacing fashion or exhibits an apparent attitude of attack, without provocation, upon the streets, sidewalks or any public grounds or on private property of another without the permission of the owner or person in lawful control of the property.
- c. Any animal with a known propensity, tendency or disposition to attack, to cause bodily harm injury to, or otherwise threaten the safety of, humans or other domestic pets or animals.
  - d. Any animal which, when unprovoked, bites a person or another domestic animal causing a less severe injury than is defined in Subsection (a)(5) above.
- (11) **Dog.** Any canine, regardless of age or sex.
  - (12) **Dog Pack.** A group of two (2) or more dogs running upon either public or private property not that of their owner, in a state in which either their control or ownership is in doubt or cannot readily be ascertained, and when such dogs are not restrained or controlled.
  - (13) **Domestic Animal.** Any animal which normally can be considered tame and adjusted to domestic home life with humans.
  - (14) **Farm Animal.** Any warm-blooded animal normally raised on farms in the United States and used for food or fiber.
  - (15) **Kennel.** An establishment where dogs are bred, trained or boarded and where more than three (3) dogs are kept.
  - (16) **Law Enforcement Officer.** Has that meaning as appears in Sec. 967.02(5), Wis. Stats., and includes a humane officer under Sec. 58.07, Wis. Stats., but does not include a conservation warden appointed under Sec. 23.10, Wis. Stats.
  - (17) **Molest.** Excessive barking, running up to or charging, threatening, jumping on or otherwise harassing people or other domestic animals or the passing public that are in the public right-of-way or on public property, or on their own property or property of anyone other than the owner or custodian of the animal.
  - (18) **Neutered.** A dog or cat having nonfunctional reproductive organs.
  - (19) **Owner.** Any person owning, harboring, having an interest in, having control or custody of, or keeping a dog, cat or other animal and/or the occupant or caretaker of any premises on which a dog, cat or other animal remains or to which it customarily returns daily for a period of five (5) or more consecutive days; such person is presumed to be harboring or keeping the dog, cat or other animal within the meaning of this Section.
  - (20) **Pet.** An animal kept and treated as a domesticated or household pet.
  - (21) **Prohibited Vicious Animal.** Means any of the following:
    - a. Any animal which is determined to be a prohibited vicious animal under this Chapter.
    - b. Any animal that, while off the owner's or caretaker's property, has killed a domesticated animal without provocation, or inflicts bodily harm, as defined in Subsection (a)(5) above.

- c. Any animal that, without provocation, inflicts bodily harm, as defined in Subsection (a)(5) above, to a person on public or private property.
  - d. An animal brought into the Village from another municipality, town or county that has been declared dangerous or vicious by that jurisdiction.
  - e. Any dog that is subject to being destroyed pursuant to Sec. 174.02(3), Wis. Stats.
  - f. Any dog or other animal which has previously been found to be potentially dangerous, the owner or caretaker having received notice of such, and the animal again aggressively bites, attacks or endangers the safety of humans or domestic animals.
  - g. Any animal trained, owned and/or harbored for the purpose of animal fighting.
- (22) **Residential Lot.** A parcel zoned as residential, occupied or to be occupied by a dwelling, platted or unplatted and under common ownership. For the purpose of this Chapter, any vacant parcel or parcels adjoining a dwelling and under the same ownership shall constitute one (1) lot.
- (23) **Restrain.** Includes notifying the dog or cat's owner or an officer and requesting either the owner or officer to capture and restrain the dog or cat, or capturing and restraining the dog or cat, and killing the dog or cat if the circumstances require immediate action if a serious safety threat is posed to a person or animal.
- (24) **Service Animal.** Any guide dog, signal dog, or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.
- (25) **Stray or Abandoned Animal.** Any animal whose owner, caretaker or custodian remains unidentified after a period of seven (7) days.
- (26) **Untagged.** Not having a valid license tag attached to a collar kept on a dog whenever the dog is outdoors unless the dog is securely confined in a fenced area.

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

## **Sec. 7-1-2 Rabies Vaccination Requirement.**

### **(a) Rabies Vaccination Requirements.**

- (1) Every owner of a dog, cat or other domestic animal four (4) months of age which is biologically able to be inoculated with an anti-rabies vaccine shall have his/her animal inoculated by a licensed veterinarian within thirty (30) days after the animal reaches four (4) months of age.
- (2) If the owner obtains the animal or brings the animal into the Village of Rio after the animal has reached four (4) months of age, the owner shall have the animal vaccinated against rabies within thirty (30) days after the dog or cat is brought into

- the Village of Rio unless the animal has been vaccinated as evidenced by a current certificate of rabies vaccination.
- (3) The owner of an animal shall have the animal revaccinated against rabies by a veterinarian before the date of that immunization expires as stated on the certificate of vaccination or, if no date is specified, as follows unless the original vaccine specifies a different time period:
- Every owner of a dog shall have his/her dog revaccinated within one (1) year of the initial vaccination and thereafter within every three (3) years.
  - Every owner of a cat shall have his/her cat revaccinated annually after the initial vaccinations.
  - Any other animal requiring revaccinations shall do so according to federal, state and local guidelines for such animal.
- (4) The certificate of vaccination shall meet the requirements of Sec. 95.21(2), Wis. Stats.
- (b) **Issuance of Certificate of Rabies Vaccination.** A veterinarian who vaccinates an animal against rabies shall complete and issue to the owner a certificate of rabies vaccination bearing a serial number and in the form approved by the Village of Rio stating the owner's name and address, the name, sex, spayed or unspayed, neutered or unneutered, breed and color of the animal, the date of the vaccination, the type of rabies vaccination administered and the manufacturer's serial number, the date that the immunization expires as specified for that type of vaccine by the Center for Disease Control of the U.S. Department of Health and Human Services and the Village of Rio.
- (c) **Copies of Certificate.** The veterinarian shall keep a copy of each certificate of rabies vaccination in a file maintained for this purpose until the date that the immunization expires or until the animal is revaccinated, whichever occurs first.
- (d) **Rabies Vaccination Tag.** After issuing the certificate of rabies vaccination, the veterinarian shall deliver to the owner a rabies vaccination tag of durable material bearing the same serial number as the certificate, the year the vaccination was given and the name, address and telephone number of the veterinarian.
- (e) **Tag to be Attached.** The owner shall attach the rabies vaccination tag or a substitute tag to a collar and a collar with the tag attached shall be kept on the animal at all times, but this requirement does not apply to an animal during competition or training, to a dog while hunting, to an animal securely confined indoors or to an animal securely confined in a fenced area. The requirements of this paragraph do not apply to a dog which is not required to be vaccinated under Subsection (a).
- (f) **Duplicate Tag.** The veterinarian may furnish a new rabies vaccination tag with a new serial number to an owner in place of the original tag upon presentation of the certificate of rabies vaccination. The veterinarian shall then indicate the new tag number on the certificate and keep a record in the file.
- (g) **Cost.** The owner shall pay the cost of the rabies vaccination and the cost associated with the issuance of a certificate of rabies vaccination and the delivery of a rabies vaccination tag.

- (h) **Exceptions.** No animal subject to the requirements of this Section shall be vaccinated if a licensed veterinarian has examined the animal and certified that at such time vaccination would seriously endanger its health because of age, infirmity, debility, illness or other medical consideration. Such exempt animal shall be vaccinated as soon as health permits.

### **Sec. 7-1-3 Dog Licenses; Multiple Dogs Licenses; Kennel Permits.**

(a) **Dog Licenses.**

- (1) **License Requirement.** It shall be unlawful for any person in the Village of Rio to own, harbor or keep any dog more than five (5) months of age without complying with the provisions of Sec. 174.05 through Sec. 174.10, Wis. Stats., relating to the listing, licensing and tagging of the same.
- (2) **Owner's Responsibility to Obtain License.** The owner of any dog more than five (5) months of age on January 1 of any year, or five (5) months of age within the license year, shall annually, or on or before the date the dog becomes five (5) months of age, pay a license tax and obtain a license.
- (3) **Dog License Tax.**
  - a. The minimum State license tax under this Section shall be charged in accordance with Sec. 174.05, Wis. Stats., as amended. An additional Village tax pursuant to Sec. 174.05, Wis. Stats., shall be paid on each dog license issued and the amount of Village tax shall not exceed the total cost of all dog licensing, regulating and impounding activities for the previous year, less any refund which may be received under Sec. 174.09(2), Wis. Stats. The license year commences on January 1 and ends on the following December 31. The dog license tax under this Section shall be:
    1. Neutered males and spayed females: As prescribed in Section 1-3-1.
    2. Unneutered males and unsplayed females: As prescribed in Section 1-3-1.
  - b. If the dog becomes five (5) months of age after July 1 of the license year, the full license fee shall be paid, with no pro-rating.
- (4) **Proof of Rabies Vaccination; License Issuance.** Upon payment of the required license tax and upon presentation of evidence that the dog is currently immunized against rabies, as required by Section 7-1-2 of this Chapter, the Village Administrator shall complete and issue to the owner a license for such dog containing all information required by state law. The Village Administrator shall also deliver to the owner, at the time of issuance of the license, a tag of durable material bearing the same serial number as the license, the name of the county in which issued and the license year.
- (5) **License Tag.**
  - a. The owner shall securely attach the tag to a collar and the collar with the tag attached shall be kept on the dog for which the license is issued at all times, except as provided in Section 7-1-2(e).



- b. The fact that a dog is without a tag attached to the dog by means of a collar shall be presumptive evidence that the dog is unlicensed. Any law enforcement or humane officer may seize, impound or restrain any dog for which a dog license is required which is found without such tag attached.
- (b) **Kennel Permits; Multiple Dogs Licenses; Kennel Construction Standards.**
- (1) ***Multiple Dogs License and Kennel Permit Requirements; Revocation.***
    - a. Any person who keeps more than three (3) animals over the age of six (6) months shall obtain a kennel permit. In the case of dogs, any person who keeps more than three (3) dogs shall, instead of the license tax for each dog required by this Chapter and state law, apply for a multiple dogs license for the keeping of the dogs. Such person shall pay for the license year a license tax as prescribed in Section 1-3-1 for twelve (12) or fewer dogs and an additional fee for each dog in excess of twelve (12). A kennel permit is required in addition to the multiple dog license.
    - b. Any person wanting to operate an animal kennel, non-commercial or commercial, shall apply for a kennel permit with the Village Administrator and pay a one-time kennel permit application review fee per Section 1-3-1, in addition to any other required licensing fees. An application for a kennel permit shall state the name and address of the owner of the proposed kennel, the location of where the kennel is proposed to be located, and the number of animal and means of confinement proposed to be kept. In the case of dogs, upon payment of the required multiple dogs license tax, and upon presentation of evidence that all dogs over five (5) months of age are currently immunized against rabies, the Village Administrator shall issue the multiple dogs license and a number of tags equal to the number of dogs authorized to be kept following Village Board approval of a kennel permit application; the multiple dogs license is a requirement separate from the kennel permit. Kennel construction standards in Section 7-1-27 shall be complied with.
    - c. Village Board approval is required for all kennels. With all kennel permit applications, the Police Department shall provide a written recommendation to the Village Board. A kennel may only be located in a residential area following a public hearing and approval by the Village Board; the Village Board may attach conditions to such approval similar to a conditional use under the Village Zoning Code. The Village Board may revoke any kennel permit for violation of this Chapter after reasonable notice and opportunity to be heard is given the kennel permit holder.
  - (2) ***Multiple Dogs License Tags; Requirements; Exceptions.*** The owner or keeper of multiple dogs shall keep at all times a multiple dogs license tag attached to the collar of each dog over five (5) months old kept by the owner or keeper under a multiple dogs license but this requirement does not apply to a show dog during competition, to a dog securely confined indoors or to a dog securely confined in a fenced area.

The rabies vaccination tag or substitute tag shall remain attached to the dog for which it is issued at all times but this requirement does not apply to a show dog during competition, to a dog securely confined indoors or to a dog securely confined in a fenced area.

- (3) **Confinement/Leash Requirement.** No dog bearing a multiple dog tag shall be permitted to stray or to be taken anywhere outside the limits of the owner's premises unless the dog is on a leash or temporarily unconfined/unleashed for the purposes of hunting, breeding, trial, training or competition.
- (4) **Humane Animal Treatment Requirement.** No kennel permit or multiple dogs license shall be issued to the keeper or operator of multiple dogs or other animals who fails to provide proper food and drink and proper shelter for the animals or who neglects or abandons said animals. Village enforcement officials shall investigate any complaints regarding the failure to maintain proper standards or investigate any multiple dogs premises upon his/her own initiative. Expressly incorporated by reference in this Section as minimum standards for kennel permit holders or multiple dogs keepers are the relevant provisions of Ch. 174, Wis. Stats.
- (5) **Inspection Consent.** A condition of being issued a kennel permit or multiple dogs license shall be that the licensed premises may be entered and inspected at any reasonable hour by appropriate Village officials without any warrant, and the application for a license hereunder shall be deemed a consent to this provision. Any refusal to permit such inspection shall automatically operate as a revocation of any license issued hereunder and shall be deemed a violation of this Section. Should any premises with a kennel permit or multiple dogs license be found to constitute a public nuisance, the license or permit shall be revoked and the nuisance abated pursuant to Village ordinances.
- (6) **Kennel Construction and Operation; Setback for Pens and Leashed Dog.** The following requirements apply to kennels:
  - a. No kennel permit shall be granted to any owner for the operation of an outdoor kennel unless the area within which the animals are to sleep, eat or exercise shall be completely enclosed with a wire mesh fence of appropriate height and strength to ensure proper confinement of said animals. A building permit shall be obtained from the Village for any dog pen or kennel structure.
  - b. No dog or animal outdoor pen/house/run may be constructed closer than ten (10) feet from a property line. No dog shall be tied so that it is closer than ten (10) feet from a property line.
  - c. Every kennel or animal outdoor confinement structure shall be maintained and operated in a neat and sanitary manner. All refuse and animal waste shall be removed at regular intervals to minimize odors and infestations of insects or vermin. No owner of the kennel shall permit any of the animals to create an

unusual or excessive noise from howling, barking, or in any other manner create a disturbance or nuisance of any kind which unduly impairs the quiet and peaceful enjoyment of the surrounding area by other residents.

(c) **Exemption for Leader Dogs and Service Animals.**

- (1) **Service Animals.** Notwithstanding the foregoing, all service animals specifically trained to work or perform tasks for the benefit of an individual with a disability are exempt from the licensing tax and every person owning such dog shall annually receive a dog license from the Village Administrator at no charge upon proper application thereof and proper vaccination required in Subsection (a)(4).
- (2) **Leader Dogs.** Notwithstanding the foregoing, every dog specifically trained to lead blind or deaf persons is exempt from the licensing tax and every person owning such dog shall receive annually a dog license from the Village Administrator at no charge upon proper application therefor and proof of rabies vaccination required in Subsection (a)(4).

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

## **Sec. 7-1-4 Late Fees.**

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

## **Sec. 7-1-5 Rabies Quarantine.**

- (a) **Reporting Suspected Rabid Animals.** Any person who suspects that a dog, cat or other domestic animal is infected with rabies shall report this information to the Police Department, describing the animal and giving the name of the owner (if known) and location.
- (b) **Area-Wide Rabies Quarantines.**
  - (1) **Area Confinement Order.** If a district is quarantined for rabies, all dogs or cats within the Village of Rio shall be kept securely confined, tied, leashed or muzzled. Any dog, cat or other domestic animal not confined, tied, leashed or muzzled is declared a public nuisance and may be impounded. All officers shall cooperate in the enforcement of the quarantine. The Village Administrator shall promptly post in at least three (3) public places in the Village notices of quarantine.

- (2) **Exemption of Vaccinated Animals from Village Quarantine.** An animal which is immunized currently against rabies, as evidenced by a valid certificate of rabies vaccination or other evidence, is exempt from the Village quarantine provisions of Subsection (a) if a rabies vaccination tag or substitute tag is attached to the animal's collar.
- (c) **Quarantine or Sacrifice of an Animal Suspected of Biting a Person or Being Infected or Exposed to Rabies.**
  - (1) **Quarantine or Sacrifice.** A law enforcement or animal control officer shall order an animal quarantined if the officer has reason to believe that the animal bit a person, is infected with rabies or has been in contact with a rabid animal. If a quarantine cannot be imposed because the animal cannot be captured or such animal exhibits actual signs of rabies, the officer may kill the animal. The officer shall attempt to kill the animal in a humane manner and in a manner which avoids damage to the animal's head. No person shall interfere with Village of Rio authorities or agents in carrying out their duties in this regard. All expenses thus incurred shall be paid by the owner or the person having custody of such animal.
  - (2) **Sacrifice of other animals.**
    - a. An officer may order killed or may kill an animal other than an animal if the officer has reason to believe that the animal bit a person or is infected with rabies.
    - b. Any domesticated wild animal that has bitten any person, inclusive of, but not limited to, wolf-dog hybrids, skunks and raccoons, shall be immediately destroyed by a licensed veterinarian and the proper specimen from the animal tested for rabies by the State Laboratory of Hygiene. All expenses connected therewith shall be charged to the owner or custodian of the animal.
- (d) **Quarantine Procedures; Law Enforcement Dog Exception.**
  - (1) **Vaccinated Animal Bite Incidents.** Any animal which has bitten any person, and whose owner shows evidence of a current rabies inoculation, shall be quarantined at such place as designated by law enforcement or health authorities for a minimum period of ten (10) days. The animal shall be examined by and under the supervision of a licensed veterinarian within twenty-four (24) hours of a quarantine notice and again on the tenth (10th) day after the incident. If, in the opinion of law enforcement or health authorities, the vaccinated animal cannot be confined securely at the residence of its owner or custodian, or exhibits signs of illness as determined by a licensed veterinarian, the animal shall be quarantined at a veterinary hospital under the supervision of a licensed veterinarian.
  - (2) **Unvaccinated Animal Bite Incidents.** Any animal which has bitten any person and which does not display evidence of rabies inoculation shall be quarantined within twenty-four (24) hours of the quarantine order at a veterinary hospital under the supervision of a licensed veterinarian for a minimum of ten (10) days. "Supervision

- of a licensed veterinarian" includes, at a minimum, examination of the animal on the first day of isolation and on the last day of isolation. If the veterinarian certifies that the animal has not exhibited any signs of rabies, the animal may be released from quarantine at the end of the observation period. After such period of time, such veterinarian shall report his/her determination or findings thereof in writing.
- (3) ***Risk to Animal Health Due to Suspected Exposure to a Rabid Animal.***
- a. If an animal is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal and if the animal is not currently immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for one hundred eighty (180) days. The owner shall have the animal vaccinated against rabies between one hundred fifty-five (155) and one hundred sixty-five (165) days after the exposure to a rabid animal.
  - b. If an animal is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal but if the animal is immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for sixty (60) days. The owner shall have the animal revaccinated against rabies as soon as possible after exposure to a rabid animal.
  - c. No person shall keep or harbor any dog or other domesticated animal, whether licensed or not, which is known to be, or when there is good reason to believe the same to be, mad, rabid, vicious or dangerous to the public.
- (4) ***Destruction of an Animal Exhibiting Symptoms of Rabies.*** If a veterinarian determines that an animal exhibits symptoms of rabies during the original or extended observation period, the veterinarian shall notify the owner and the officer who ordered the animal quarantined and the officer or veterinarian shall kill the animal in a humane manner and in a manner which avoids damage to the animal's head. If the animal is suspected to have bitten a person, the veterinarian shall notify the person or the person's physician.
- (5) ***Law Enforcement Dog Exception.*** The quarantine requirements of this Subsection does not apply to a dog used by a law enforcement agency and which bites a person while the dog is performing law enforcement functions if the dog is immunized against rabies as evidenced by a valid certificate of rabies vaccination or other evidence. The agency shall make the dog available for examination at any reasonable time. The law enforcement agency shall notify the local health authorities if the dog exhibits any abnormal behavior.
- (e) ***Delivery of Carcass; Preparation; Examination by Laboratory of Hygiene.*** An officer who kills an animal shall deliver the carcass to a veterinarian or local health department. The veterinarian or local health department shall prepare the carcass, properly prepare and package the head of the animal in a manner to minimize deterioration, arrange for delivery by the most expeditious means feasible of the head of the animal to the State Laboratory

of Hygiene and dispose of or arrange for the disposal of the remainder of the carcass in a manner which minimizes the risk or exposure to any rabies virus. The State Laboratory of Hygiene shall examine the specimen and determine if the animal was infected with rabies. The State Laboratory of Hygiene shall notify the Village of Rio, the veterinarian or local health department which prepared the carcass and, if the animal is suspected to have bitten a person, that person or the person's physician.

- (f) **Cooperation of Veterinarian.** Any practicing veterinarian who is requested to be involved in the rabies control program by an officer is encouraged to cooperate in a professional capacity with the Village of Rio, the State Laboratory of Hygiene, the applicable health department, the officer involved and, if the animal is suspected to have bitten a person, the person's physician.
- (g) **Responsibility for Quarantine and Laboratory Expenses.** The owner of an animal is responsible for any expenses incurred in connection with keeping the animal in an isolation facility, supervision and examination of the animal by a veterinarian, preparation of the carcass for laboratory examination and the fee for the laboratory examination.
- (h) **State Laws Adopted by Reference.** The provisions of Sec. 95.21 and Chs. 173 and 174, Wis. Stats., insofar as the same are applicable and exclusive of penalties, are incorporated by reference and made a part of this Section with the same force and effect as those set forth verbatim herein. Any amendments to those sections shall be adopted by reference as if they were fully set forth herein.

*State Law Reference:* Secs. 95.21 and 174.02(3), Wis. Stats.

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

- (a) **Restrictions.** It shall be unlawful for any person within the Village of Rio to own, harbor or keep any animal which:
  - (1) Has been declared by the Village of Rio to be a prohibited vicious animal.
  - (2) Habitually pursues any vehicle upon any public street, alley or highway in the Village.
  - (3) Molests people, domestic animals, or passing vehicles.
  - (4) Attacks persons or domestic animals without provocation when such persons or domestic animals are peacefully conducting themselves in a place where they are lawfully entitled to be.
  - (5) Is repeatedly at large within the limits of the Village of Rio.
  - (6) Is at large on school grounds, parks or cemeteries in violation of Village ordinances.
  - (7) Damages private or public property.
  - (8) Does not have the current vaccination as required by Section 7-1-2.
  - (9) Habitually barks or howls to the annoyance of any reasonable person or persons in an excessive, continuously or untimely manner. (See Section 7-1-15.)

- (10) Kills, wounds or worries any domestic animal.
  - (11) Is known by such person to be infected with rabies or to have been bitten by an animal known to have been infected with rabies.
  - (12) In the case of a dog or cat, is unlicensed.
  - (13) Is tied or leashed in a manner that prohibits or impairs the reading of utility meters.
  - (14) Is permitted by its owner to run in dog packs.
- (b) **Unleashed Dogs or Other Animals Running at Large.**
- (1) No owner, keeper, harborer or caretaker of any dog or other animal shall permit the same to be unleashed or unrestrained at any time said dog or other animal is not on the owner's, keeper's, harborer's, or caretaker's property or premises and which is upon any public street, alley, right-of-way or any school ground, public park, cemetery or other public or private property without the permission of the owner or occupier of the property.
  - (2) A dog or other animal which is leashed or otherwise restrained by any device that is less than ten (10) feet in length, which is of sufficient strength to restrain and control said dog or other animal, and is held by a person competent to govern and control said animal, who has obtained the age of ten (10) years or more, and is able to prevent said dog or animal from annoying or worrying pedestrians or from trespassing on private or public property. Furthermore, a dog or other animal is not unleashed or uncontrolled and at large if it is properly restrained within a motor vehicle.
  - (3) A service animal (as defined in Section 7-1-1) shall not be considered running at large whether or not the animal is on a leash if the animal is in the immediate company of the owner or immediately responds and obeys (e.g. a dog playing a game of "fetch" in a field or walking alongside its owner, a member of the owner's immediate family or the assisting individual of the service animals' owner).
  - (4) Any person or entity who violates this Subsection (b) shall be subject to a forfeiture of not less than Fifty Dollars (\$50.00), plus court costs, and not more than Five Hundred Dollars (\$500.00), together with any impoundment under Section 7-1-8.
- (c) **Owner's Liability for Damage Caused by Dogs or Other Animals; Penalties.** The provisions of Sec. 174.02, Wis. Stats., relating to the owner's liability for damage caused by dogs and other animals together with the penalties therein set forth are hereby adopted and incorporated herein by reference.
- (d) **Owner's Responsibility for Animal Bites.** It is the responsibility of an animal's owner when such dog or other animal bites a person, including when that person is lawfully present on the property.

## **Sec. 7-1-7 Prohibited Vicious or Dangerous Animals; Dangerous Dog Supplemental Registration.**

- (a) **Definitions.** The following definitions shall be applicable in this Section:
- (1) **Dangerous Dog or Animal.** Shall be as defined in Section 7-1-1(a)(10).
  - (2) **Prohibited Vicious Dog or Animal.** Shall be as defined in Section 7-1-1(a)(21).

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

(1) ***Village-Wide Prohibition.*** No person shall harbor, keep or maintain within the Village of Rio any dog or other animal classified under this Chapter as a prohibited vicious dog or animal.

(2) ***Determination of Prohibited Vicious Animal.***

- a. A dog or other animal may be designated as a prohibited vicious animal whenever an enforcement officer finds that the animal meets the definition of prohibited vicious animal or is a potentially dangerous dog or animal in non-compliance with any of the requirements of this Section.
- b. Upon finding that an animal meets the definition of a prohibited vicious animal, the enforcement officer may issue an order declaring an animal to be a prohibited vicious animal. Any dog or other animal alleged to be of prohibited vicious disposition by virtue of an attack upon a human being or domestic animal shall be confined subject to Sec. 173.21, Wis. Stats., or be confined at a location outside of the Village, as directed by the authorities, until the outcome of appeals and the disposition of the charge issued by citation.
- c. Whenever the owner or caretaker of the animal desires to appeal such a determination, he/she shall, withing seventy-two (72) hours after receipt of the order, deliver to the Village Administrator a written objection to the order stating specific reasons for contesting the determination. Upon receipt of the written objection, the matter shall be placed on the agenda of the Ordinance Committee for review; the Village President may deem it necessary to call a special meeting of that Committee to hear the written objection, the cost of such special meeting to be the responsibility of the appellant. The Ordinance Committee shall act as a quasi-judicial body allowing the animal's owner or caretaker an opportunity to present evidence as to why the animal should not be declared a prohibited vicious animal.
- d. After the hearing, the owner or caretaker of the animal shall be notified in writing of the Ordinance Committee's decision. If the owner or caretaker of the animal further contests the determination, he/she shall within five (5) days of receiving the Committee's decision, seek review of the decision by the Village Board.
- e. If the final determination is that the dog or animal is classified as prohibited vicious, the owner shall comply with the requirements of Subsection (b)(1) above within five (5) days after the final determination. The owner or caretaker of any dog or other animal found to be prohibited vicious shall be prohibited from returning that dog or other animal to the Village of Rio.

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

- (1) ***Forfeiture.*** Any person convicted of violating Subsection (b) above shall pay a forfeiture of Five Hundred Dollars (\$500.00) together with all costs and assessments.



Each day that a person owns, harbors, keeps, maintains or cares for any prohibited vicious dog or other animal in violation of this Section may be deemed a separate and distinct violation, subject to separate citations and convictions. Furthermore, any violation of Subsection (b) above shall result in a further penalty of having the subject animal or dog impounded by any law enforcement or animal control officer of the Village of Rio, or any law enforcement or animal control officer of any jurisdiction authorized by the Village to enforce or effectuate the Village of Rio's ordinances. Each day of violation is a separate offense.

- (2) **Impoundment.** In the event that any prohibited vicious dog or animal has been impounded, said dog's or animal's owner shall be required to make arrangements to have said animal removed from the corporate limits of the Village of Rio within seven (7) days of impoundment or the end of the appeals process. In the event any impounded animal has not had arrangements made to remove said animal from the corporate limits of the Village of Rio within said seven (7) day period, any law enforcement officer or animal control officer for the Village of Rio shall be authorized to destroy said animal.

(d) **Restrictions and Rules Regarding Dangerous Dogs or Animals.**

(1) ***Dangerous Animals Regulated.***

- a. No person may harbor or keep a dangerous dog or animal within the Village of Rio unless all provisions of this Section are fully complied with. Any animal that is subsequently determined to be a prohibited vicious animal under this Section shall not be kept or harbored in the Village of Rio.
- b. The issuance of a citation for a violation of this Section need not be predicated on a prior determination that an animal is a dangerous animal.

(2) ***Procedure for Declaring an Animal Dangerous.***

- a. Upon conducting an investigation, an enforcement officer may issue an order declaring an animal to be a dangerous animal. Whenever possible, any complaint received from a member of the public which serves as part of the evidentiary basis for the animal control officer or law enforcement officer to find probable cause, shall be sworn to and verified by the complainant and shall be attached to the record.
- b. Whenever an owner or caretaker desires to contest a determination that his/her animal is dangerous, he/she shall, within seventy-two (72) hours after receipt of the order, file with the Village Administrator a written objection to the order stating specific reasons for objecting to the determination. Upon receipt of the written objection, the matter shall be placed on the agenda for a meeting of the Ordinance Committee, which shall act as a quasi-judicial body allowing the owner or caretaker of the animal an opportunity to present evidence as to why the animal should not be declared dangerous. The Committee may admit all relevant documents and testimony into evidence including incident reports and affidavits

of witnesses, photographs, and personal testimony. For the Ordinance Committee to determine that a dog or other animal is dangerous, there must be a preponderance of the evidence to establish the same.

- c. After the hearing, the owner or caretaker of the animal shall be notified in writing of the determination of the Ordinance Committee. If the Committee upholds the determination that the animal is dangerous, the owner or caretaker of the animal shall comply with the requirements of Subsection (d)(3) below. If the owner or caretaker decides to appeal the decision of the Ordinance Committee, he/she may, within five (5) days of receiving the Committee's decision, file an appeal with the Village Administrator for review of the decision by the Village Board.
- d. Upon appeal, if a determination is made that a dog or other animal is dangerous as herein provided, the owner, keeper, harborer or caretaker shall comply with Subsections (d)(6)-(8) and in accordance with the time schedule established by law enforcement authorities or animal control officer serving the Village of Rio, or designee, but in no case more than thirty (30) days after the date of the determination.

(3) ***Affirmative Defenses; Exceptions.***

- a. No dog or other animal may be declared dangerous if any injury or damage was sustained by a person who, at the time the injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner, keeper, harborer or caretaker of the dog or other animal, or was teasing, tormenting, abusing, or assaulting the dog or other animal, or was committing or attempting to commit a crime.
- b. No dog or other animal may be declared dangerous if the dog or other animal was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack or assault.
- c. No dog or other animal may be declared dangerous if an injury or damage was sustained by a domestic animal which, at the time of the injury, or damage was sustained, was teasing, tormenting, abusing or assaulting the dog or other animal.
- d. No dog or other animal may be declared dangerous if the injury or damage to a domestic animal was sustained while the dog was working as a hunting dog, herding dog, or predator control dog on the property of or under the control of its owner, keeper, harborer or caretaker, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog.
- e. No dog or other animal may be declared dangerous if the injury or damage to another domestic animal was sustained while on the property or premises of the owner, harborer, keeper or caretaker of the dog or other animal, and the injured domestic dog or animal was upon the property not owned or maintained by the owner of the injured or damaged domestic animal.

- f. No dog or other animal may be declared dangerous for acts committed by the animal while being utilized by a law enforcement agency for law enforcement purposes while under the control and direction of a law enforcement officer.
- (4) ***Licensing and Vaccination Requirements; Dangerous Dog Supplemental Registration.*** All dangerous dogs or other animals shall be properly licensed and vaccinated. The licensing authority for the Village of Rio shall include the potentially dangerous designation in the registration records of the dog, either after the owner or keeper of the dog has agreed to the designation or at the time the enforcement officer determines the designation applies to the dog or animal. The Village of Rio charges a dangerous dog registration fee in addition to the regular licensing fee per Sec. 1-3-1 to provide for the increased cost of maintaining the records of the dog; such registration fee shall be paid annually to the Village Administrator thereafter on or before April 1 of each year, accompanied by a current color photograph of the dog or animal being registered.
- (5) ***Leash and Muzzle Requirements for Dangerous Animals.***
  - a. No owner or caretaker harboring or having the care of a dangerous dog or animal may permit such dog or animal to be or remain outside of its dwelling, kennel or pen unless the animal is securely restrained with a leash no longer than five (5) feet in length.
  - b. A dangerous dog or other animal may be off the owner's premises only if it is restrained by a substantial leash, not more than five (5) feet in length, and muzzled by a device sufficient to prevent the animal from biting persons or other animals, and if the animal is under the control and supervision of a responsible adult while being restrained by said leash and muzzle.
  - c. No person may permit a dangerous animal to be kept on a chain, rope or other type of leash outside of its dwelling, kennel or pen unless a person who is sixteen (16) years of age or older, competent to govern the dangerous animal and capable of physically controlling and restraining the animal, is in physical control of the chain, rope or leash to which the animal is attached.
  - d. A dangerous animal may be securely leashed or chained outside to an immovable object, but only if the owner or caretaker is physically present with the animal at all times when it is so leashed or chained to prevent mistreatment.
- (6) ***Confinement Requirements for Dangerous Animals.***
  - a. Except when properly leashed and muzzled, all dangerous animals shall be securely confined indoors or in a securely enclosed and locked kennel or pen structure that is located on the premises of the owner or caretaker and which is constructed in a manner that does not allow the animal to exit the pen or kennel on its own volition.
  - b. When constructed in a yard, a pen or kennel for confining a dangerous animal shall, at a minimum, be constructed to conform with the requirements of this

paragraph. The pen or kennel shall be child-proof from the outside and animal-proof from the inside. A strong metal mesh double fence with adequate space between fences a minimum of two (2) feet shall be provided so that a child cannot reach into the animal enclosure. The pen or kennel shall have secure sides and a secure top attached to all sides. A structure used to confine a dangerous animal shall be locked with a key or combination lock when the animal is within the structure. The structure shall have either a secure bottom or floor attached to the sides of the pen/kennel or the sides of the pen/kennel shall be embedded in the ground no less than two (2) feet. All structures used to house dangerous animals shall comply with all pertinent regulations of this Chapter, the Village Zoning Code, and Building Code. All structures for housing a dangerous animal shall be adequately lighted and ventilated and kept in a clean and sanitary condition.

- c. No dangerous animal may be kept on a porch, patio or in any part of a house or other structure on the premises of the owner or caretaker which would allow the animal to exit the building on its own volition. No dangerous animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the animal from escaping the structure.
- (7) **Signs Warning of Dangerous Animal.** The owner or caretaker of a dangerous animal shall display, in prominent locations on his/her premises near all entrances to the premises, signs in letters of not less than two (2) inches high warning that there is a dangerous animal on the property. A similar sign is required to be posted on the kennel or pen of the dangerous animal. In addition, the owner or caretaker shall conspicuously display a sign with a symbol warning children of the presence of a dangerous animal.
- (8) **Spay/Neuter Requirements for Dangerous Animals.** Within ten (10) days after an animal has been designated dangerous under this Section, the owner or caretaker of the animal shall provide the Village with written proof from a licensed veterinarian that the animal has been spayed or neutered.
- (9) **Liability Insurance Requirement for Dangerous Animals.** The owner or caretaker of a dangerous animal shall present the Village Administrator with a certificate of insurance that the owner or caretaker has procured liability insurance in a coverage amount not less than One Million Dollars (\$1,000,000.00) for any personal injuries inflicted by the dangerous animal. Such insurance shall remain in force and effect at all times that the animal is maintained or harbored in the Village of Rio. Annually, at the time of licensing and registration, proof of such insurance shall be provided to the Village. Whenever such liability insurance policy is cancelled or not renewed, the insurer and the owner or caretaker of the dangerous animal shall notify the Village of Rio of such cancellation or non-renewal in writing by certified mail.

- (10) **Notice Upon Death, Sale or Relocation of Animal.**
- a. No person may sell or transfer possession of a designated dangerous animal to another person without disclosing to the person to whom the dangerous animal is being sold or transferred of the fact that such animal is a dangerous animal and of all requirements imposed upon selling or transferring by this Section. No person may sell or transfer possession of a dangerous animal to another person without first notifying the Village's enforcement officer in writing, a minimum of three (3) days in advance of the sale or transfer of possession of the animal with the name, address and telephone number of the new owner or caretaker. If the dangerous animal is sold or given to a person residing outside of the Village of Rio, the owner or caretaker shall present evidence to the enforcement officer that he/she has notified the pertinent law enforcement agency serving the animal's new residence, including the name, address and telephone number of the new owner of the dangerous animal.
  - b. If a dangerous dog or other animal dies, or is sold, transferred or permanently removed from the Village of Rio where the owner, harborer, keeper or caretaker so resides, said person who owns, keeps, harbors, or caretakes a dangerous dog or other animal shall notify the Village of Rio or the animal control officer of the change in condition or new location of the dangerous dog or other animal in writing within three days (3) prior to said dog's or other animal's removal.
- (11) **Notification to Landlord of Presence of a Dangerous Animal.** If the owner or caretaker of an animal that has been designated a dangerous animal has a landlord, then in such event the owner or caretaker shall, within five (5) days of such designation, cause a certified letter to be sent to the landlord notifying the landlord that the renter is the owner or caretaker of a designate dangerous animal at the premises owned by the landlord and shall provide a copy of the letter and proof of mailing to the enforcement officer.
- (12) **Euthanasia.** If the owner or caretaker of an animal which has been designated a dangerous animal is unwilling or unable to comply with the regulations for keeping a dangerous animal in accordance with this Section, he/she shall have the animal humanely euthanized by an animal shelter, humane society or licensed veterinarian, at the owner's or caretaker's expense.
- (13) **Waiver.** The enforcement officer may waive the provisions of this Subsection (d) for a trained law enforcement or military animal upon presentation by the animal's handler of satisfactory arrangements for safekeeping of the animal.
- (e) **Penalty for Violations of Subsection (d).**
- (1) **Forfeiture.** Any person or entity convicted of violating Subsection (d) shall pay a forfeiture of not less than Two Hundred and Fifty Dollars (\$250.00), together with all costs and assessments. Each day that a person owns, harbors, keeps, maintains or cares for any dangerous dog or other animal in violation of Subsection (d) may be deemed separate and distinct violations, subject to separate citations and convictions.

- (2) **Impoundment.** Furthermore, any violation of Subsection (d) may result in a further penalty of having the subject animal or dog impounded by any law enforcement or animal control officer of the Village of Rio, or any law enforcement or animal control officer of any jurisdiction authorized by the Village of Rio to enforce or effectuate the Village's ordinances, may impound any dog or other animal which is subject to this Section. In the event that any restricted or prohibited animal or other prohibited vicious or dangerous animal or dog has been impounded, said dog's or animal's lawful owner shall be required to make arrangements to have said animal removed from the corporate Village of Rio limits within seven (7) days of impoundment. In the event any impounded animal has not had arrangements made to lawfully remove said animal from the corporate Village limits within said seven (7) day period, any law enforcement officer or animal control officer for the Village of Rio shall be authorized to destroy said animal.

## **Sec. 7-1-8 Impoundment of Animals.**

(a) **Animal Control Agency.**

- (1) The Village of Rio may contract with or enter into an agreement with such person, persons, organization or corporation to provide for the operation of an animal shelter, impoundment of stray animals, confinement of certain animals, disposition of impounded animals and for assisting in the administration of rabies vaccination programs.
- (2) The Village of Rio does hereby delegate to any such animal control agency the authority to act pursuant to the provisions of this Section.

(b) **Impounding of Animals.** In addition to any penalty hereinafter provided for a violation of this Chapter, a law enforcement or animal control officer may impound any dog, cat or other animal which habitually pursues any vehicle upon any street, alley or highway of the Village of Rio, assaults or attacks any person, is at large within the Village, habitually barks, cries or howls, kills, wounds or worries any domestic animal or is infected with rabies. In order for an animal to be impounded, the impounding officer must see or hear the violation of this Section or have in his/her possession a signed statement of a complaining witness made under oath alleging the facts regarding the violation and containing an agreement to reimburse the Village of Rio for any damages it sustains for improper or illegal seizure.

(c) **Claiming Animal; Disposal of Unclaimed Animals.**

- (1) **Seizure.** A law enforcement officer or any animal control officer appointed by the Village Board may attempt to capture and restrain dogs or other animals running at large or otherwise in violation of this Chapter, and shall confine and capture or restrain animals in a suitable dog pound or other enclosure. After seizure of animals under this Section by a law enforcement or animal control officer, the animal shall be impounded.

- (2) **Retention and Disposition of Unclaimed Animals.** All dogs or other animals apprehended may be kept for no more than three (3) days at the animal pound or other enclosure and if such animal is not claimed by the rightful owner, representative or keeper within such time, said animal shall be transmitted to the area or County Humane Society to be handled in accordance with the Wisconsin Statutes and the policies of that facility.
- (3) **Notification.** A person who captures or restrains a dog or other animal shall notify or deliver the dog or other animal to the humane society or to any officer within twelve (12) hours of capture or restraint. Any law enforcement or other Village official to whom a dog or other animal is delivered shall attempt to notify the owner as soon as possible if the owner is known or can be ascertained with reasonable effort.
- (4) **Claiming Animals.** The owner or representative, or keeper of any dog or other animal so confined may reclaim such animal from the detention shelter at any time before transmittal to the humane society, if:
  - a. The owner, representative or keeper gives his/her name and address.
  - b. The owner, representative or keeper presents evidence that the dog is licensed and presents evidence that the dog is vaccinated against rabies, or a receipt from a licensed veterinarian for repayment of a rabies inoculation.
  - c. The owner, representative or keeper pays the cost of apprehending, boarding fees, necessary medical treatment and impounding fees, if any.
- (5) **Payment of Costs.** Payment of costs and charges shall be made to the Village of Rio. Upon identification of the owner of a dog or other animal so apprehended or confined, all Village costs and charges shall be billed to said owner.
- (d) **Sale of Impounded Animals.** If the owner does not reclaim the animal within seven (7) days, the animal control officer may sell the animal to any willing buyer.
- (e) **Village Not Liable for Impounding Animals.** The Village of Rio and/or its animal control agency shall not be liable for the death of any animal which has been impounded or disposed of pursuant to this Section.

## **Sec. 7-1-9 Animal Bite Incidents.**

- (a) **Bites by Domestic Animals.**
  - (1) **Report.** Every owner or person harboring or keeping a dog, cat, or other domesticated animal who knows that such dog, cat, or other domesticated animal has bitten any person shall within twelve (12) hours report such fact to law enforcement officers serving the Village of Rio, a physician or other animal control enforcement authority.
  - (2) **Post-Bite Incident Quarantine.**
    - a. A healthy dog, cat or other domestic animal that has bitten a person shall be captured, confined and observed for not less than ten (10) days by a veterinarian or at an animal shelter at the expense of the animal's owner or caretaker, or if the

owner can provide evidence of a valid rabies vaccination, such animal can be confined and observed at the home of the owner. The owner or keeper of any such dog, cat, ferret or other domesticated animal shall surrender the dog, cat, ferret or other domesticated animal to a law enforcement or humane officer upon demand for examination.

- b. After such quarantine period, animals which have not previously been vaccinated for rabies shall be vaccinated, with proof of vaccination provided to the Police Department within seventy-two (72) hours of release.
  - c. A domestic animal which has been exposed to rabies shall be held in quarantine for six (6) months.
  - d. A domestic animal which has been vaccinated, but has been exposed to rabies, shall be quarantined for sixty (60) days.
- (b) **Bites by Wild Animals.**
- (1) **Report.** Any person bitten or scratched by a wild animal shall report that fact within twelve (12) hours to the Police Department or the attending physician.
  - (2) **Wild Animal to be Destroyed.** Any wild animal that bites or scratches a person shall be killed by the Police Department (without unnecessary damage to the head), with the brain to then be examined for evidence of rabies.

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

- (a) **Definitions.** A "wolf/dog hybrid" is defined as any cross-breed resulting from the mating of a domesticated dog and a wolf, coyote jackal or dingo or resulting from the mating of any wolf/dog hybrid and another wolf/dog hybrid or a domesticated dog. As used herein:
  - (1) **Canine Animal.** Includes all members of the family *canidae* except foxes.
  - (2) **Domesticated Dog.** *Canis familiaris*.
  - (3) **Wolf.** Includes both *canis lupus* and *canis niger*.
  - (4) **Coyote.** *Canis latrans*.
  - (5) **Jackal.** *Canis Aurens*.
  - (6) **Dingo.** *Canis dingo*.
- (b) **Prohibition on Unregistered Animals.** No person shall harbor, keep or maintain within the Village of Rio any wolf/dog hybrid which has not been registered pursuant to Subsection (k) below on or before January 30, 2023. This prohibition shall not apply to animals being transported through the limits of the Village of Rio within a one (1) hour period of time. A pup born to a female wolf/dog hybrid so registered shall be removed from the Village of Rio before it has reached the age of five (5) months. Wolf/dog hybrids permitted in the Village of Rio shall be confined as set forth in this Section.
- (c) **Removal; Impoundment.** Whenever any person is charged with harboring, keeping or maintaining a wolf/dog hybrid in the Village of Rio which has not been registered on or before January 30, 2023, that person shall, to the satisfaction of the court, remove said



animal from the Village of Rio until a trial on the citation. If said animal has not been so removed within forty-eight (48) hours of the service of the citation, the said animal may be impounded as directed by Village authorities until the trial on the citation. In that case, the owner of any such animal shall pay all expenses incurred due to such impoundment, including but not limited to the cost of shelter, food, handling and veterinary care. If it is determined by plea or trial that said animal is a wolf/dog hybrid not registered pursuant to Subsection (k) on or before January 30, 2023, it shall be removed from and not returned to the Village of Rio.

- (d) **Confinement Requirements.** The owner of any wolf/dog hybrid permitted to be kept in the Village of Rio, and the owner of any property on which such wolf/dog hybrid is kept, shall see that the animal is at all times confined according to the minimum requirements of this Section. A wolf/dog hybrid may be kept only in enclosures that meet the following minimum requirements:

- (1) The first enclosure shall be constructed of not less than nine- (9-) gauge galvanized chain link fencing, with mesh openings not greater than two (2) inches, which shall be securely anchored by stainless steel or copper rings, placed at intervals not greater than six (6) inches apart, to a poured concrete base as described herein. Such enclosure shall be not less than five hundred (500) square feet in area, plus two hundred fifty (250) square feet for each additional canine animal kept therein. Such enclosure shall be the location in which any wolf/dog hybrid is primarily kept.
- (2) The first enclosure shall extend to a height of not less than eight (8) feet, and shall be surrounded from ground level to a height of not less than four (4) feet by one-quarter (1/4) inch galvanized mesh screening.
- (3) The first enclosure shall have a full top, which shall also be constructed of not less than nine- (9-) gauge chain link fencing with mesh openings not greater than two (2) inches, and which shall be securely anchored to the sides of the enclosure. The entire base of the first enclosure shall be a poured concrete slab floor at least four (4) inches thick.
- (4) The second enclosure shall consist of a securely anchored fence at least six (6) feet in height, which shall entirely surround the first enclosure, and no part of which shall be nearer than six (6) feet in height, which shall entirely surround the first enclosure, and no part of which shall be nearer than six (6) feet from any part of the first enclosure. Said fence shall be a "vision barrier" fence, no more than five percent (5%) open for through vision, except, however, that the portion of said fence facing the dwelling of the owner of said animals or of the property on which they are kept shall be constructed of not less than nine- (9-) gauge chain link fencing, to provide for observation of said animals. If any portion of said fence is made of wood, the finished or painted side thereof shall face outward from the first enclosure.
- (5) Both enclosures shall be kept locked with case hardened locks at all times when an animal is unattended by an adult. The first (innermost) enclosure shall have double entrance gates or doors situated and constructed in such a fashion as to prevent an

- animal from escaping past an open gate or door. The gates or doors providing access to the first (innermost) enclosure shall be spring-loaded, so as to shut on their own accord behind anyone entering that enclosure.
- (6) Within the first enclosure, shelter shall be provided adequate to protect the animals confined against weather extremes. The first enclosure shall be regularly cleaned to remove excreta and other waste materials, dirt and trash, in a manner adequate to minimize health hazards and avoid offensive odors.
- (7) The above described enclosures shall be located in the rear yard of any property on which a wolf/dog hybrid is kept, as defined in the Village Zoning Code (Title 13).
- (e) **Transportation and Muzzling of Animals.** A wolf/dog hybrid may be transported only if confined in a secure, locked container, covered with one-fourth (1/4) inch galvanized fine mesh screen. This paragraph shall not prohibit the walking of such animals, provided they are muzzled and restrained by a leather lead, at least one (1) inch in diameter and not exceeding three (3) feet in length, attached to a metal choker-type collar, under the control of an adult. The muzzle must be made in a manner that will not cause injury to the wolf/dog hybrid or unduly interfere with its vision or respiration, but will prevent it from biting any person or animal.
- (f) **Right of Inspection.** To insure compliance with this Section, any person possessing any registration papers, certificate, advertisement or other written evidence relating to the bloodlines or ownership of a canine animal found within the Village of Rio shall produce the same for inspection on demand of any law enforcement, conservation, animal control or public health officer or court.
- (g) **Limitation on Numbers.** No person shall own, harbor or keep in his/her possession on any one parcel of property more than two (2) wolf/dog hybrids over five (5) months of age at any one time, nor shall any person retain a litter or portion of a litter of wolf/dog hybrids longer than five (5) months.
- (h) **Veterinary Exception.** The foregoing provisions of this Section shall not apply to doctors of veterinary medicine in temporary possession of wolf/dog hybrids in the ordinary course of their practice.
- (i) **Abandonment or Negligent Release.** No person shall willfully or negligently release or abandon a wolf/dog hybrid as defined herein within the Village of Rio.
- (j) **Nonconforming Enclosures.** As to any person keeping wolf/dog hybrids in existing enclosures in the Village of Rio on the date of original passage of this Section, Subsection (d) shall take effect on January 30, 2023; for all other persons, said Subsection shall take effect and be in force from and after passage and publication as provided by law. The remaining provisions of this Section shall take effect and be in force from and after passage and publication as provided by law.
- (k) **Wolf/Dog Hybrid Registration; Insurance Requirement.** All owners of any wolf/dog hybrid in the Village of Rio shall, on or before January 30, 2023, and annually thereafter on or before January 30th of each year, register such animal and provide a current color photograph of such animal with the Village Administrator's office and pay a registration fee

as prescribed in Section 1-3-1. At the time of registration, each owner of any wolf/dog hybrid kept within the Village limits shall provide to the Village Administrator proof of liability insurance in the amount of at least One Million Dollars (\$1,000,000.00) for any acts of property damage, personal injury or other liability incurred by virtue of any injury or damage inflicted by such wolf/dog hybrid. Such insurance shall name the Village of Rio as a named co-insured solely for the purpose of notice of cancellation of such insurance policy.

- (l) **Warning Sign.** The owner or keeper of a wolf/dog hybrid shall display on the premises on which such animal is kept signs warning that there is a wolf/dog hybrid on the property as provided herein. Such signs shall be visible and capable of being read within at least twenty (20) feet of their placement, but shall not be more than two (2) square feet in area, and shall state in bold, capital letters, on a white background, the following: "WARNING — WOLF/DOG HYBRIDS PRESENT". One such sign shall be placed in the front yard of any property on which any wolf/dog hybrid is kept, and additional such signs shall be placed on all gates or doors providing access through the second (outermost) enclosure required above.

## **Sec. 7-1-11 Keeping Of Exotic Animals; Protected Animals, Fowl, Reptiles and Insects.**

### **(a) Intent.**

(1) **Purpose.** It is the purpose and intent of the Village of Rio in adopting this Section to protect the public safety, health and general welfare from the safety and health risks that the unregulated keeping or harboring of exotic animals can pose to the community and to protect the health and welfare of permitted exotic animals held in private possession. By their very nature, exotic animals are wild and potentially dangerous, and, typically, do not adjust well to a captive environment. This Section shall be liberally construed in favor of the Village's right and authority to protect the public health, safety and welfare.

(2) **Prohibition.** It shall be unlawful for any person to own, possess, maintain, harbor, bring into the Village of Rio, have in one's possession, act as a custodian for, or have custody or control on an exotic animal, except in compliance with this Section.

- (b) **Definitions.** The following definitions and terms shall be applicable in this Section. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not permissive; the word "may" is nonmandatory and discretionary:

(1) **Animal.** For purposes of this Section, shall mean exotic animals.

(2) **Animal Control Officer.** Law enforcement officers serving the Village of Rio, the Zoning Administrator, animal control officers, humane society employees, or any other person designated by the Village of Rio to enforce or assist in the enforcement of this Section.

- (3) **Exotic Animal (including USDA Dangerous Animals).** Any animal, fowl, insect, or reptile that is not normally domesticated in Wisconsin or is inherently wild by nature. Exotic animals include, but are not limited to, any or all of the following orders, families and/or species, whether bred in the wild or in captivity, and also hybrids with domestic species. The animals, fowl, insects, and reptiles listed in parentheses are intended to act as examples and are not to be construed as an exhaustive list nor to limit the generality of each group of animals, fowl, reptiles or insects:
- a. Non-human primates and prosimians\*, including chimpanzees (Pan); monkeys (Cercopithecidae); gibbons (Hylobates); gorillas (Gorilla); orangutans (Pongo); and baboons (Papio, Mandrillus).
  - b. Canidae\*, excluding non-hybrid domesticated dogs, including wolves (Canis lupus); coyotes (Canis latrans); and all foxes and jackals.
  - c. Felidae\*, excluding domesticated cats, including cheetahs (Acinonyx jubatus); jaguars (Panthera onca); leopards (Panthera pardus); lions (Panthera leo); lynxes (Lynx); pumas (Felis concolor) which are also known as cougars, mountain lions or panthers; snow leopards (Panthera uncia); tigers (Panthera tigris); and ocelots.
  - d. Ursidae\*, including all bears.
  - e. Crocodylians (Crocodylia) thirty (30) inches in length or more, including alligators, caimans, and crocodiles.
  - f. Proboscidea\*, including elephants (Elephas and Loxodonta).
  - g. Hyaenidae\*, including all hyenas.
  - h. Artiodactyla\*, including hippopotami (Hippopotamidae) and giraffes (excluding camels, cattle, swine, sheep and goats).
  - i. Procyonidae, including coatis (raccoons excluded).
  - j. Marsupialia, including kangaroos (opossums excluded).
  - k. Perissodactyla\*, including rhinoceroses (Rhinocerotidae) and tapirs, excluding horses, donkeys and mules.
  - l. Edentata, including anteaters, sloths and armadillos.
  - m. Viverridae, including mongooses, civets and genets.
  - n. Game cocks and other fighting birds.
  - o. Varanidae, including only water monitors and crocodile monitors.
  - p. Any other type of dangerous or carnivorous wild animal, fowl, or reptile.
- \* *Species listed on the United States Department of Agriculture's dangerous species list.*
- (4) **Own/Owner/Owning.** Any person, corporation, partnership, limited liability corporation, organization, association, joint venture, trust, or other legal entity who possesses, harbors, keeps, controls, boards, or has in his/her custody an exotic animal in the Village of Rio, and any officer, member, shareholder, director, employee, agent or representative thereof. Any animal is being harbored if it is being fed and/or sheltered by such party.
- (5) **Section.** The same meaning as "this Ordinance."

(c) **Protected Animals; Compliance with Federal Regulations.**

- (1) **Federal Code Requirements.** It shall be unlawful for any person, firm or corporation to buy, sell or offer for sale a native or foreign species or subspecies of mammal, bird, amphibian or reptile, or the dead body or parts thereof, which appears on the endangered species list designated by the United States Secretary of the Department of Interior and published in the Code of Federal Regulations pursuant to the Endangered Species Act of 1969 (Public Law 134, 91st Congress).
- (2) **Regulation of the Importation of Birds.** No person, firm or corporation shall import or cause to be imported into the Village of Rio any part of the plumage, skin or dead body of any species of hawk, owl or eagle. This Subsection shall not be construed to forbid or restrict the importation or use of the plumage, skin, body or any part thereof legally collected for use by American Indian Nations for ceremonial purposes or in the preservation of their tribal customs and heritage.
- (3) **Possession and/or Sale of Protected Animals.** It shall be unlawful for any person to possess with intent to sell or offer for sale, or buy or attempt to buy, within the Village of Rio any of the following animals, alive or dead, or any part or product thereof:
  - a. All wild cats of the family Felidae.
  - b. Polar bear (*Thalarctos maritimus*).
  - c. Red wolf (*Canis nigher*).
  - d. Vicuna (*Vicugna vicugna*).
  - e. Alligator, caiman or crocodile of the order of Crocodilia.
  - f. Gray or timber wolf (*Canis lupus*).
  - g. Sea otter (*Enhydra lutris*).
  - h. Pacific ridley turtle (*Lepidochelyns olvacea*), Atlantic green turtle (*Chelonia myda*), or Mexican ridley turtle (*Lepidochelys kemp*i).
- (4) **Exceptions.** The provisions of this Subsection shall not be deemed to prevent the lawful importation, possession, purchase or sale of any species by any public agency, or by a person holding a Scientific Collectors Permit issued by the Wisconsin Department of Natural Resources, or to any person or organization licensed to present a circus.

## **Sec. 7-1-12 Animal Feces.**

- (a) **Removal of Fecal Matter.** The owner or person in charge of any dog, cat, horse, or other domestic animal shall not permit solid fecal matter of such animal to be deposited on any street, alley or other public or private property, unless such matter is immediately removed therefrom by said owner or person in charge. The owner or person in charge of such animal shall, while on any street, alley or other public or private property of another with

such animal, have within their possession the necessary equipment to immediately remove such fecal matter from the street, alley or other public or private property. This regulation is also applicable to farm animal waste transported through the Village. This Section shall not apply to a person who is visually or physically handicapped.

**(b) Accumulation of Fecal Matter Prohibited on Private Yards.**

- (1) Owner's Property.** The owner or person in charge of the dog, cat or other animal must also prevent accumulation of animal waste on his/her own property by regularly inspecting and properly disposing of the fecal matter.
- (2) Rental Property.** Any owner of property rented to others must insure tenants do not permit the accumulation of animal waste on the rental property by tenants regularly and shall inspect and properly dispose of fecal matter.

### **Sec. 7-1-13 Injury to Property by Animals.**

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

### **Sec. 7-1-14 Barking Dogs or Crying Cats.**

It shall be unlawful for any person knowingly to keep or harbor any dog which barks, howls or yelps, or any cat which cries or howls to the great discomfort of the peace and quiet of the neighborhood or in such manner as to materially disturb or annoy persons in the neighborhood who are of ordinary sensibilities. Such dogs and cats are hereby declared to be a public nuisance.

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

- (a) Artificially Colored Animals or Fowl.** No person may sell, offer for sale, raffle, give as a prize or premium, use as an advertising device or display living chicks, ducklings, other fowl or rabbits that have been dyed or otherwise colored artificially.
- (b) Sale Numbers; Brooder Chicks Exception.**
  - (1)** No person may sell, offer for sale, barter or give away living chicks, ducklings or other fowl without providing proper brooder facilities for the care of such chicks, ducklings or other fowl during the time they are in such person's care, custody or control.

- (2) No retailer, as defined in Sec. 100.30(2)(g), Wis. Stats., may sell, offer for sale, barter or give away living baby rabbits, baby chicks, ducklings or other fowl under two (2) months of age, in any quantity less than six (6), unless the purpose of selling these animals is for agricultural, wildlife or scientific purposes.

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

## **Sec. 7-1-16 Providing Proper Care, Food and Drink to Animals.**

- (a) **Care of Dogs, Cats and Domesticated Animals.** All dogs, cats and other domesticated animals shall be cared for, maintained and handled in a humane and sanitary manner and in such a way as to prevent noises, barking, fighting or howling or other disturbance of the peace and quiet of the neighborhood. No domestic animal shall be abandoned or turned loose by its owner or keeper. No animal shall be inhumanely confined in a manner which causes or is likely to cause pain, suffering, injury or death, or be kept in an unsanitary or matted state of grooming.
- (b) **Food and Water.**
  - (1) No person owning or responsible for confining or impounding any animal may refuse or neglect to supply the animal with a sufficient supply of food and water as prescribed in this Section.
  - (2) The food shall be sufficient to maintain all animals in good health.
  - (3) If potable water is not accessible to the animals at all times, it shall be provided daily and in sufficient quantity for the health of the animal.

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

## **Sec. 7-1-17 Providing Proper Shelter.**

- (a) **Proper Shelter.** No person owning or responsible for confining, harboring or impounding any animal, including, but not limited to, dogs, cats and horses, shall fail to provide the animal with proper shelter as prescribed in this Section. In the case of farm animals, nothing in this Section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices in the particular county where the animal or shelter is located.
- (b) **Indoor Standards.** Minimum indoor standards of shelter shall include:
  - (1) **Ambient temperatures.** The ambient temperature shall be compatible with the health of the animal.
  - (2) **Ventilation.** Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.

- (c) **Outdoor Standards.** Minimum outdoor standards of shelter shall include:
  - (1) **Shelter from sunlight.** When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, "caged" does not include farm fencing used to confine farm animals.
  - (2) **Shelter from inclement weather.**
    - a. **Animals generally.** Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.
    - b. **Dogs.** If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size to accommodate the dog shall be provided.
- (d) **Space Standards.** Minimum space requirements for both indoor and outdoor enclosures shall include:
  - (1) **Structural strength.** The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.
  - (2) **Space requirements.** Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.
- (e) **Sanitation Standards.** Minimum standards of sanitation for both indoor and outdoor enclosures shall include periodic cleaning to remove excreta and other waste materials, dirt and trash so as to minimize health hazards.

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

## **Sec. 7-1-18 Neglected, Abandoned or Injured Animals.**

- (a) **Neglected or Abandoned Animals.**
  - (1) No person may abandon any animal.
  - (2) Any law enforcement or animal control officer may remove, shelter and care for an animal found to be cruelly exposed to the weather, starved or denied adequate water, neglected, abandoned or otherwise treated in a cruel manner and may deliver such animal to another person to be sheltered, cared for and given medical attention, if necessary. In all cases the owner, if known, shall be immediately notified and such officer, or other person, having possession of the animal shall have a lien thereon for its care, keeping and medical attention and the expense of notice.
  - (3) If the owner or custodian is unknown and cannot, with reasonable effort, be ascertained or does not, within five (5) days after notice, redeem the animal by paying the expenses incurred, it may be treated as a stray and dealt with as such.



- (4) Whenever, in the opinion of any such officer, an animal is hopelessly injured or diseased so as to be beyond the probability of recovery, it shall be lawful for such officer to kill such animal and the owner thereof shall not recover damages for the killing of such animal unless he shall prove that such killing was unwarranted.
- (5) Section 951.16, Investigation of Cruelty Complaints, and Sec. 951.17, Wis. Stats., Expenses of Investigation, are hereby adopted by reference and made a part of this Chapter.
- (b) **Injured Animals.** No person who owns, harbors or keeps any animal shall fail to provide proper medical attention to such animal when and if such animal becomes sick or injured. In the event the owner of such animal cannot be located, the Village or any animal control agency with whom the Village has an agreement or contract shall have the authority to take custody of such animal for the purpose of providing medical treatment, and the owner thereof shall reimburse the person or organization for the costs of such treatment.
- (c) **Vehicle Accidents.** The operator of any vehicle involved in an accident resulting in injury to or death of any domestic animal shall stop such vehicle at the scene of the accident, or as close thereto as possible, and, if possible to do so safely, remove the animal to the side of the roadway and notify the Police Department.

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

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

- (a) **Acts of Cruelty or Mistreatment Prohibited.** No person may treat any animal, whether belonging to that person or not, in a cruel manner. No person except a law enforcement or animal control officer in the pursuit of his/her duties shall, within the Village of Rio, shoot or kill or commit an act of cruelty to any animal or bird or disturb any bird's nests or bird's eggs. This Subsection does not prohibit bona fide experiments carried on for scientific research or normal and accepted veterinary practices.
- (b) **Leading Animal From Motor Vehicle.** No person shall lead any animal upon a Village street from a motor vehicle, tractor, snowmobile, all-terrain vehicle, or from a trailer or semi-trailer drawn by a motor vehicle.
- (c) **Use of Poisonous and Controlled Substances.** No person may expose any pet animal owned by another to any known poisonous substance or controlled substance listed in Sec. 961.14, Wis. Stats., whether mixed with meat or other food or not, where it is reasonable to anticipate the substance may be eaten by such animal or for the purpose of harming the animal. This Subsection shall not apply to poison used on one's own premises and designed for the purpose of rodent and pest extermination, nor the use of a controlled substance used in accepted veterinarian practice or in research by persons or organizations regularly engaged in such research.

- (d) **Use of Certain Devices Prohibited.** No person may directly or indirectly, or by aiding, abetting or permitting the doing thereof either put, place, fasten, use or fix upon or to any animal used or readied for use for a work purpose or for use in an exhibition, competition, rodeo, circus or other performance any of the following devices: a bristle bur, tack bur or like device; or a poling device used to train a horse to jump which is charged with electricity or to which have been affixed nails, tacks or other sharp points.
- (e) **Shooting at Caged or Staked Animals.** No person may instigate, promote, aid or abet as a principal, agent, employee, participant or spectator, or participate in the earnings from or intentionally maintain or allow any place to be used for the shooting, killing or wounding with a firearm or any deadly weapon any animal that is tied, staked out, caged or otherwise intentionally confined in a man-made enclosure, regardless of size.
- (f) **Transportation of Animals.** No person may transport any animal in or upon any vehicle in a cruel or reckless manner. An animal shall not be left unattended in a vehicle when extreme heat conditions exist.
- (g) **Taking Without Owner's Consent.** No person may take any dog, cat or other domestic animal from one place to another without the owner's consent or cause such animal to be confined, transported or held without the owner's consent, except when such is part of an enforcement response by authorities.

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

- (a) **Purpose.** The keeping of a large number of dogs and cats within the Village of Rio for a considerable period of time detracts from and, in many instances, is detrimental to, healthful and comfortable life in such areas. The keeping of a large number of dogs and cats is, therefore, declared a public nuisance.
- (b) **Definitions.** The following definitions shall be applicable in this Section:
  - (1) **Dog.** Any canine, regardless of age or sex.
  - (2) **Residential Lot.** A residential lot means a parcel of land zoned as residential, occupied or to be occupied by a dwelling, platted or unplatted, and under common ownership. For the purpose of this Section, any vacant parcel or parcels adjoining a dwelling and under the same ownership shall constitute one (1) lot.
- (c) **Number Limited.**
  - (1) No family shall own, harbor or keep in its possession more than three (3) dogs and three (3) cats, with a maximum of five (5) animals, on any residentially zoned lot without the prior approval of the Village Board, except that a litter of pups or kittens or a portion of a litter may be kept for not more than eight (8) weeks from birth. If more than one (1) family resides on a residential lot, then only a total of three (3) dogs or cats shall be allowed on the residential lot unless the prior approval is obtained from the Village Board. For the purposes of this Section, the term "family" shall be defined as one (1) or more persons.

- (2) The above requirement may be modified with the approval of the Village Board when a multiple dogs or cats (kennel) license has been issued by the Village pursuant to Section 7-1-3(b). Such application for modification shall be made to the Village Administrator as part of the conditional use application.

## **Sec. 7-1-21 Trapping of Animals.**

### **(a) Unauthorized Placement on Public Lands Prohibited.**

- (1) In the interest of public health and safety, it shall be unlawful for any person, on Village-owned land within the Village of Rio to set, place or tend any trap for the purpose of trapping, killing, catching, wounding, worrying or molesting any animal, except by use of live box-type traps only. Live box-type traps shall be defined as those traps which capture and hold an animal in an alive and unharmed condition.
- (2) This Section shall prohibit the use of all traps on Village-owned property other than live traps as described above, including, but not limited to, traps commonly known as leg traps, pan-type traps or other traps designed to kill, wound or close upon a portion of the body of an animal.

- (b) **Statutory Requirements.** All such traps set, placed or tended shall comply with Chapter 29, Wis. Stats., as they relate to trapping.

- (c) **Official Duties Exception.** Nothing in this Section shall prohibit the Village of Rio or its employees or agents from performing their official duties or engaging in Village Board-authorized vermin control.

## **Sec. 7-1-22 Snakes; Farm Animals.**

- (a) **Snakes.** No person shall keep or possess any snake in the Village of Rio. This prohibition shall not apply to bona fide schools, zoos, educational institutions or exhibitions keeping such snakes for display or for instructional or research purposes. Any person legally possessing any such animal in this capacity shall notify the Village Administrator in writing of the location and type of snake being kept and the purpose for such possession.
- (b) **Farm Animals Prohibited.** No person shall own, keep, harbor or board any cattle, horses, ponies, swine, goats, chickens, sheep, or other animals or fowl normally considered to be farm animals or livestock in the Village of Rio.

## **Sec. 7-1-23 Keeping of Bees.**

It shall be unlawful for any person to establish or maintain any hive, stand or box where bees are kept or keep any bees in or upon any premises within the corporate limits of the Village of Rio unless the bees are kept in accordance with the following provisions:

- (a) No hive, stand or box where bees are kept shall be located closer than twenty (20) feet to any property boundary. Such hives, stands or boxes may only be located in the rear yard.
- (b) If bee colonies are kept within fifty (50) feet of any exterior boundary of the property on which the hive, stand or box is located, a barrier that will prevent bees from flying through it, no less than five (5) feet high, shall be installed and maintained along said exterior boundary. Said barrier may be either a natural planting or artificial.
- (c) Fresh, clean watering facilities for bees shall be provided on the said premises.
- (d) The bees and equipment shall be kept in accordance with the provisions of state law.
- (e) A conditional use permit shall first be obtained pursuant to the Village Zoning Code.
- (f) An exception to the requirements of this Section is the keeping of bees in a hive, stand or box located within a school building for the purpose of study or observation.

## **Sec. 7-1-24 Feeding of Deer or Stray Animals.**

- (a) **Feeding of Deer Prohibited.** No person may place any salt, mineral, grain, deer suckers, fruit or vegetable material outdoors on any public or private property for the purpose of feeding whitetail deer or enticing deer into any specific area of anyone's property in the Village of Rio.
- (b) **Presumption.** There shall be a rebuttable presumption that either of the following acts are for the purpose of feeding whitetail deer:
  - (1) **Placement Height.** The placement of salt, mineral, grain, deer suckers, fruit or vegetable material in an aggregate quantity of greater than one-half (1/2) gallon at the height of less than six (6) feet off the ground.
  - (2) **Placement Quantity.** The placement of salt, mineral, grain, deer suckers, fruit or vegetable material in an aggregate quantity of greater than one-half (1/2) gallon in a drop feeder, automatic feeder or similar device regardless of the height of the salt, mineral, grain, fruit or vegetable material.
- (c) **Exceptions.** This Section shall not apply to the following situations:
  - (1) **Hunting.** The placement of bait for the purpose of hunting whitetail deer subject to all other laws, ordinances, rules and regulations governing hunting and the discharge of hunting weapons in the State of Wisconsin.
  - (2) **Naturally Growing Materials.** Naturally growing grain, fruit or vegetable material, including gardens and residue from lawns, gardens and other vegetable materials maintained as a mulch pile.
  - (3) **Bird Feeders.** Unmodified commercially purchased bird feeders or their equivalent.
  - (4) **Authorized by the Village Board.** Deer feeding may be authorized on a temporary basis by the Village Board for a specific public purpose as determined by the Village Board.
  - (5) **Counting.** Deer feeding may be authorized on a temporary basis by the Village Board for the purpose of determining the deer population.

- (d) **Feeding of Stray Animals.** No person shall feed any stray dog or cat.

### **Sec. 7-1-25 Dognapping, Catnapping or Petnapping.**

No person may take the dog, cat or other domestic pet of another from one place to another without the owner's consent or cause that such animal be confined or carried out of the Village of Rio or held for any purpose without the owner's consent. This Section does not apply to law enforcement, animal control officers or humane society agents engaged in the exercise of their official duties, or as otherwise permitted by this Chapter.

### **Sec. 7-1-26 Vehicle Accidents.**

The operator of any vehicle involved in an accident resulting in injury to or death of a dog, cat or other animal which appears to be a pet shall immediately notify the Police Department or an animal control agency whose jurisdiction extends into the Village of Rio.

### **Sec. 7-1-27 Penalties.**

- (a) **Penalties for Violations Under This Chapter.** Any person violating any Section of this Chapter, except Sections 7-1-7 and 7-1-11 (which have specific penalty provisions therein), shall be subject to a forfeiture of not less than Fifty (\$50.00) Dollars and not more than Two Hundred Dollars (\$200.00) for the first offense and not less than One Hundred Dollars (\$100.00) and not more than Four Hundred Dollars (\$400.00) for any subsequent offenses. Violators of other Sections of this Chapter shall be subject to the penalty provisions of Section 1-1-6.
- (b) **Failure to Comply with Rabies Quarantine.** An owner who refuses to comply with an order issued under Section 7-1-5 to deliver an animal to an officer, isolation facility or veterinarian or who does not comply with the conditions of an order that an animal be quarantined shall be fined not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) or imprisoned not more than sixty (60) days or both.
- (c) **Miscellaneous.** Each day that a violation of this Chapter continues shall be deemed a separate violation. Any animal found to be the subject of a violation of this Section shall be subject to immediate seizure, impoundment and removal from the Village of Rio by Village-authorized officials in the event the owner or keeper of the animal fails to remove the animal from the Village of Rio. In addition to the foregoing penalties, any person who violates this Chapter shall pay all expenses including shelter, food, handling and veterinary care necessitated by the enforcement of this Chapter. This Section shall also permit the

**7-1-27**

Village Attorney to apply to the court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating any aspect of this Chapter.

## Title 7 ► Chapter 2

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# Fermented Malt Beverages and Intoxicating Liquor

### Article A      Fermented Malt Beverages and Intoxicating Liquor

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## Article A: Fermented Malt Beverages and Intoxicating Liquor

### **Sec. 7-2-1 State Statutes Adopted.**

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

*State Law Reference:* Chapter 125, Wis. Stats.

### **Sec. 7-2-2 Definitions.**

All terms defined in Ch. 125, Wis. Stats., shall have the meaning set forth in that statutory chapter.

### **Sec. 7-2-3 License Required.**

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

### **Sec. 7-2-4 Classes of Licenses.**

#### **(a) Retail "Class A" Intoxicating Liquor License.**

- (1) **Generally.** A retail "Class A" intoxicating liquor license, when issued by the Village Administrator under the authority of the Village Board, shall permit its holder to sell, deal and traffic in intoxicating liquors only in original packages or containers and to be consumed off the premises so licensed.
- (2) **Customer Samples.** A "Class A" license authorizes the licensee to provide, free of charge, to customers and visitors who have attained the legal drinking age, taste

samples of intoxicating liquor other than wine that are not in original packages or containers and that do not exceed 0.5 fluid ounces each, for consumption on the "Class A" premises. No "Class A" licensee may provide more than one such taste sample per day to any one person. Taste samples may be provided only between the hours of 11:00 a.m. and 7:00 p.m. Any representative of a manufacturer, rectifier, winery, or out-of-state shipper issued a permit under Secs. 125.52, 125.53, or 125.58, Wis. Stats., may assist the "Class A" licensee in dispensing or serving the taste samples. No "Class A" licensee may provide as taste samples under this Subsection intoxicating liquor other than wine that the "Class A" licensee did not purchase from a wholesaler.

- (b) **Retail "Class A" Intoxicating Liquor License – Cider Only.** A "Class A" intoxicating liquor license issued under this Section shall entitle the holder to sell, deal and traffic in cider only, and only in original packages or containers and to be consumed off the premises so licensed. A retail "Class A" Intoxicating Liquor License for Cider only shall be granted to an applicant who holds a Class "A" Fermented Malt Beverage Retailer's license issued under Sec. 125.25, Wis. Stats., or under Subsection (e) of this Section, for the same premises for which the "Class A" license application is made.
- (c) **Retail "Class B" Intoxicating Liquor License.** A retail "Class B" intoxicating liquor license, when issued by the Village Administrator under authority of the Village Board, shall permit its holder to sell, deal and traffic in intoxicating liquors to be consumed by the glass only on the premises so licensed and in the original package or container in multiples not to exceed four (4) liters at any one (1) time, to be consumed off the premises, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off the premises. Per Sec. 125.51(3), Wis. Stats., a "Class B" intoxicating liquor license can only be issued to a holder of a Class "B" fermented malt beverage license.
- (d) **Reserve "Class B" Licenses.** A Reserve "Class B" license means a license that is not granted or issued by the Village of Rio on December 1, 1997, and that is counted under Sec. 125.51(4)(br), Wis. Stats., which, if granted or issued, authorizes the sale of intoxicating liquor to be consumed by the glass only on the premises where sold, and also authorizes the sale of intoxicating liquor in the original package or container in multiples not to exceed four (4) liters at any one time, to be consumed off premises, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off the premises.
- (e) **Class "A" Fermented Malt Beverage Retailer's License.**
  - (1) **Generally.** A Class "A" retailer's fermented malt beverage license, when issued by the Village Administrator under the authority of the Village Board, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only for consumption away from the premises where sold and in the original packages, containers or bottles. Such license may be issued after July 1st. The license shall expire on the following June 30th.

- (2) **Customer Samples.** A Class "A" license also authorizes the licensee to provide, free of charge to customers and visitors who have attained the legal drinking age, fermented malt beverages taste samples that are not in original packages, containers, or bottles and that do not exceed three (3) fluid ounces each, for consumption on the Class "A" premises. No Class "A" licensee may provide more than two (2) taste samples per day to any one person. Taste samples may be provided under this Subsection only between the hours of 11:00 a.m. and 7:00 p.m. Any other regulatory provision applicable to retail sales of fermented malt beverages by a Class "A" licensee also applies to the provision of taste samples, free of charge, of fermented malt beverages by a Class "A" licensee.
- (f) **Class "B" Fermented Malt Beverage Retailer's License.**
- (1) **License.** A Class "B" fermented malt beverage retailer's license, when issued by the Village Administrator under the authority of the Village Board, shall entitle the holder thereof to possess, sell or offer for sale, fermented malt beverages, either to be consumed upon the premises where sold or away from such premises. The holder may also sell beverages containing less than one-half (1/2) of a percentum of alcohol by volume, without obtaining a special license to sell such beverages. Such license may be issued after July 1st. The license shall expire on the following June 30th.
- (2) **Application.** Class "B" licenses may be issued to any person qualified under Sec. 125.04(5), Wis. Stats. Such licenses may not be issued to any person acting as agent for or in the employ of another except that this restriction does not apply to a hotel or restaurant which is not a part of or located on the premises of any mercantile establishment, or to a bona fide club, society or lodge that has been in existence for at least six (6) months before the date of application. A Class "B" license for a hotel, restaurant, club, society or lodge may be issued in the name of an officer who shall be personally responsible for compliance with this Chapter. Except as provided in Sec. 125.31, Wis. Stats., Class "B" licenses may not be issued to brewers or fermented malt beverages wholesalers.
- (g) **Temporary Class "B" Fermented Malt Beverage License.**
- (1) **License.**
- a. As provided in Sec. 125.26(1) and (6), Wis. Stats., Temporary Class "B" fermented malt beverage licenses may be issued to bona fide clubs and chambers of commerce, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six (6) months before the date of application and to posts of veterans' organizations authorizing the sale of fermented malt beverages at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by a fair association or agricultural society.
- b. A license issued to a county or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of fermented

malt beverages from leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of fermented malt beverages from the stands while the fair is being held.

c. Such license is valid for dates as approved by the Village Administrator.

(2) **Application.**

a. Application for such temporary license shall be signed by the president or corresponding officer of the society or association making such application and shall be filed with the Village Administrator together with the appropriate license fee for each day for which the license is sought. Any denial of a license may be appealed to the Village Board under Section 7-2-10. Any application not filed at least five (5) days before the date of the licensed event may not provide enough time for the Village Administrator to take action of the application, and any application not filed at least forty-five (45) days before the date of the licensed event may not provide enough time for the applicant to appeal any denial of license by the Village Administrator.

b. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a forfeiture of Two Hundred Dollars (\$200.00) and will be ineligible to apply for a temporary Class "B" license for one (1) year.

c. The temporary license shall specify the hours and dates of license validity. The application shall be filed a minimum of fifteen (15) days prior to the meeting of the Village Board at which the application will be considered for events of more than four (4) consecutive days.

d. If the application is for a temporary license to be used in a Village park, the applicant shall specify the main point of sale facility.

e. The Village Board, or other official authorized to issue Temporary Class "B" fermented malt beverage licenses, may issue a qualified organization Temporary Class "B" beer licenses for a multiple-location, single-day event on a specific date and time for the purpose of conducting a "beer walk". For such an event to occur:

1. The Temporary Class "B" fermented malt beverage licenses must be issued by the Village to the same qualified organization which is the licensee and sponsor of the multiple-location, single-day event.

2. The Temporary Class "B" fermented malt beverage licenses must be issued for the same date and time.

3. An admission fee shall be charged for participation in the event. No additional charge can be charged for service of alcohol at the event.

4. There is no limit to the number of Temporary Class "B" fermented malt beverage licenses the Village may issue to a qualified organization.

f. Temporary Class "B" licensees must purchase all beer from beer wholesalers or breweries/brewpubs authorized to self-distribute to retail licensees.

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

(1) **License.**

- a. Notwithstanding Sec. 125.68(3), Wis. Stats., Temporary "Class B" wine licenses may be issued to bona fide clubs and chambers of commerce, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six (6) months before the date of application and to posts of veterans' organizations authorizing the sale of wine in an original package, container or bottle or by the glass if the wine is dispensed directly from an original package, container or bottle at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. An eligible organization may obtain a Temporary "Class B" wine license without also obtaining a temporary Class "B" fermented malt beverage license.
- b. No fee may be charged to a person who, at the same time, applies for a Temporary Class "B" beer license under Sec. 125.26(6), Wis. Stats., for the same event. A license issued to a county or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of wine from leased stands on the fairgrounds.
- c. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of wine from the stands while the fair is being held.
- d. Not more than two (2) such licenses may be issued under this Subsection to any club, chamber of commerce, county or local fair association, agricultural association, church, lodge, society or veterans' post in any twelve (12) month period.
- e. An applicant may receive up to twenty (20) temporary licenses for the purpose of conducting a "wine walk" if all of the following apply:
  1. Each license is issued for the same date and times and the licensee is the sponsor of an event held at multiple locations within the municipality on this date and at these times.
  2. An admission fee is charged for participation in the event and no additional fee is charged for service of alcohol at the event.
  3. Within the immediately preceding twelve (12) month period, the Village has issued licenses under authority of this Subsection for fewer than two (2) events.
  4. The duration of an event may not exceed one (1) day.
  5. Multiple licenses issued under this Subsection count as one (1) license for purposes of Subsection (h)(1)d.

(2) **Application.**

- a. Application for such temporary wine license shall be signed by the president or corresponding officer of the society or association making such application and shall be filed with the Village Administrator together with the appropriate license

- fee for each day for which the license is sought. Any application not filed at least five (5) business days before the desired date of the license may not provide enough time for the Village Administrator to take action on the application. Any denial of a license may be appealed to the Village Board under Section 7-2-10.
- b. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a forfeiture of Two Hundred Dollars (\$200.00) and shall be ineligible to apply for a temporary "Class B" wine license for one (1) year.
  - c. The license shall specify the hours and dates of license validity.
  - d. If the application is for a license to be used in a Village park, the applicant shall specify the main point of sale facility.
  - e. The Village Board, or other official authorized by the Village Board to issue temporary "Class B" wine licenses, may authorize an underage person to enter and remain on the premises so licensed if all of the following apply:
    - 1. The Village Board issuing the license, or other official authorized by the Village Board, authorizes the licensee to permit underage persons to be on the licensed premises for the purpose of acting as designated drivers.
    - 2. The licensee permits on the licensed premises unaccompanied underage persons to be present only for the purpose of acting as designated drivers and the licensee provides a means of identification, such as a wrist band, to identify such underage persons as designated drivers.
    - 3. The underage person is present on the licensed premises to act as a designated driver and displays the means of identification specified herein.
  - f. Temporary "Class B" licensees must purchase all wine from wine wholesalers or other entities authorized to self-distribute wine to retail licensees.
- (i) **Wholesaler's License.** A wholesaler's fermented malt beverage license, when issued by the Village Administrator under authority of the Village Board, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only in original packages or containers to dealers, not to be consumed in or about the premises of said wholesaler.
- (j) **Retail "Class C" Wine License.**
- (1) In this Subsection, "barroom" means a room that is primarily used for the sale or consumption of alcohol beverages.
  - (2) A "Class C" license authorizes the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold.
  - (3) A "Class C" license may be issued to a person qualified under Sec. 125.04(5), Wis. Stats., for a restaurant in which the sale of alcohol beverages accounts for less than fifty percent (50%) of gross receipts and which does not have a barroom if the Village's quota prohibits the Village from issuing a "Class B" license to that person. A "Class C" license may not be issued to a foreign corporation or a person acting as agent for or in the employ of another.

- (4) A "Class C" license shall particularly describe the premises for which it is issued.
- (k) **Provisional Retail Licenses.**
- (1) Pursuant to Sec. 125.185, Wis. Stats., the Village Administrator is authorized to issue provisional retail licenses for the retail sale of fermented malt beverages, intoxicating liquor or wine. Provisional retail licenses may be issued to applicants when unique situations arise, such as, but not limited to, special business timing needs which create an inability to meet the notice requirements for issuance of regular retail alcohol beverage licenses, etc.
- (2) A provisional retail license may only be issued to a person who has applied for a regular Class "A", Class "B", "Class A", "Class B" or "Class C" license and authorizes only the activities that the type of retail license applied for authorizes. No person may hold more than one (1) provisional retail license for each type of license applied for by the holder per year. The fee for a provisional retail license shall be Fifteen Dollars (\$15.00). The holder of a provisional retail license shall in all respects comply with the applicable requirements of the Wisconsin Statutes and Title 7, Chapter 2 of the Village of Rio Code of Ordinances.
- (3) A provisional retail license shall expire sixty (60) days after its issuance by the Village Administrator or when the Class "A", Class "B", "Class A", "Class B", or "Class C" license is issued to the holder by the Village Board, whichever is sooner. The Village Board or Village Administrator may revoke the provisional retail license if it is discovered that the holder of the license made a false statement on the application.
- (4) Notwithstanding Subsection (k)(1) above, the Village Administrator may not issue a provisional "Class B" license if the municipality's quota under Sec. 125.51(4), Wis. Stats., prohibits the municipality from issuing a "Class B" license.

*State Law Reference:* Chapter 125, Wis. Stats.

*Cross-Reference:* Section 7-2-17.

## **Sec. 7-2-5 License Fees.**

- (a) **Fees.** There shall be the following classes of licenses in the Village of Rio which, when issued by the Village Administrator under the authority of the Village Board after payment of the license fee and publication costs hereinafter specified, shall permit the holder to sell, deal or traffic in intoxicating liquors or fermented malt beverages as provided in Section 7-2-4 of this Code of Ordinances and Chapter 125, Wis. Stats.:
- (1) **Class "A" Fermented Malt Beverages Retailer's License.** The annual fee for this license shall be as prescribed in Section 1-3-1. The fee for a license for less than twelve (12) months shall be prorated according to the number of months or fraction thereof for which the license is issued.

- (2) **"Class A" Intoxicating Liquor License – Cider.** There is no fee for a "Class A" Cider License.
- (3) **Class "B" Fermented Malt Beverage License.** The annual fee for this license shall be as prescribed in Section 1-3-1. This license may be issued at any time for six (6) months in any calendar year, for which fifty percent (50%) of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued. The fee for a license for less than twelve (12) months shall be prorated according to the number of months or fraction thereof for which the license is issued.
- (4) **Temporary Class "B" Fermented Malt Beverage License.** The fee for this license shall be as prescribed in Section 1-3-1 per event.
- (5) **Temporary "Class B" Wine License.** The fee for this license shall be as prescribed in Section 1-3-1 per event. However, there shall be no fee if the Temporary Wine License is obtained along with a Temporary Fermented Malt Beverage License.
- (6) **Fermented Malt Beverage Wholesalers' License.** The annual fee for this license shall be as prescribed in Section 1-3-1.
- (7) **"Class A" Intoxicating Liquor Retailer's License.** The annual fee for this license shall be as prescribed in Section 1-3-1.
- (8) **"Class B" Intoxicating Liquor Retailer's License.** The annual fee for this license shall be as prescribed in Section 1-3-1. This license may be issued at any time for six (6) months in any calendar year, for which fifty percent (50%) of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued.
- (9) **"Class C" Wine License.** The annual fee for this license shall be as prescribed in Section 1-3-1. The fee for less than one (1) year shall be prorated.
- (b) **Cancellation for Failure to Pay Fee.** The Village shall issue each license approved by the Village Board and shall make the same available at the Village Administrator's office. Any licenses for which the license fee is not paid within fifteen (15) days of approval of the application by the Village Board shall be returned to the Village for cancellation or other disposition.

## **Sec. 7-2-6 Application for License.**

- (a) **Filing of Applications; Filing Times.** Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on the form prescribed by the Wisconsin Department of Revenue and shall be sworn to by the applicant as provided by Secs. 887.01 to 887.04, Wis. Stats. Applications shall be filed with the Village Administrator not less than fifteen (15) days prior to the granting of such license, except all Temporary Class "B" Fermented Malt Beverage or Wine licenses lasting four (4) days or under shall be filed with the Village Administrator at least five (5) days prior to the date the license is to take effect. The premises shall be physically described to include



- every room and storage space to be covered by the license, including all rooms not separated by a solid wall or joined by connecting entrances. Included shall be the applicant's Wisconsin Sellers Permit number and Federal Employer Identification number.
- (b) **Corporations.** Such application shall be filed and sworn to by the applicant if an individual, by the president and secretary, of a corporation.
  - (c) **Application Period After Denial.** Each applicant that is denied a liquor license shall wait one (1) calendar year before submitting another application.
  - (d) **Publication.** The Village Administrator shall publish each application for a Class "A", Class "B", "Class A", "Class B", or "Class C" license. There is no publication requirement for temporary Class "B" picnic beer licenses under Sec. 125.26, Wis. Stats., or temporary "Class B" picnic wine licenses under Sec. 125.51(10), Wis. Stats. The application shall be published once in the official Village newspaper, and the costs of publication shall be paid by the applicant at the time the application is filed, as determined under Sec. 985.08, Wis. Stats.
  - (e) **Amending Application.** Whenever anything occurs to change any fact set out in the application of any licensee, such licensee shall file with the issuing authority a notice in writing of such change within ten (10) days after the occurrence thereof.
  - (f) **Quotas.** License quotas shall be as established in Ch. 125, Wis. Stats.

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

- (a) **Residence Requirements.** A retail Class "A" or Class "B" fermented malt beverage, "Class A" or Class B" intoxicating liquor license, or Class "C" wine license shall be granted only to persons who are citizens of the United States or persons with permanent residency status (green card) who have been residents of the State of Wisconsin continuously for at least ninety (90) days prior to the date of application.
- (b) **Applicant to Have Malt Beverage License.** No retail "Class B" intoxicating liquor license shall be issued to any person who does not have or to whom is not issued a Class "B" retailer's license to sell fermented malt beverages.
- (c) **Right to Premises.**
  - (1) No applicant will be considered unless he/she has the right to possession of the premises described in the application for the license period, by lease or by deed.
  - (2) Any person applying for a Class "B" Intoxicating Liquor license shall have a premises at the time application is made or within the license year. In the event a building permit for construction or remodeling has been issued, the Village may conditionally approve the license, pending completion of the construction and issuance of an occupancy permit. In the event such licensee does not secure a premises or construction has not been completed within the time designated by the Village and an occupancy permit has not been issued, such conditional license shall be invalid.

- (d) **Age of Applicant.** Licenses related to alcohol beverages shall only be granted to persons who have attained the legal drinking age.
- (e) **Corporate Restrictions.**
  - (1) No license or permit may be issued to any corporation unless the corporation meets the qualifications under Sec. 125.04(a)1 and 4 and (b), Wis. Stats., unless the agent of the corporation appointed under Sec. 125.04(6) and the officers and directors of the corporation meet the qualifications of Sec. 125.04(a)1 and 3 and (b) and unless the agent of the corporation appointed under Sec. 125.04(6) meets the qualification under Sec. 125.04(a)2. The requirement that the corporation meet the qualifications under Sec. 125.04(a)1 and (b) does not apply if the corporation has terminated its relationship with all of the individuals whose actions directly contributed to the conviction.
  - (2) Each corporate applicant shall file with its application for such license a statement by its officers showing the names and addresses of the persons who are stockholders together with the amount of stock held by such person or persons. It shall be the duty of each corporate applicant and licensee to file with the Village Administrator a statement of transfers of stock within forty-eight (48) hours after such transfer of stock.
  - (3) Any license issued to a corporation may be revoked in the manner and under the procedure established in Sec. 125.12, Wis. Stats., when more than fifty percent (50%) of the stock interest, legal or beneficial, in such corporation is held by any person or persons not eligible for a license under this Chapter or under the state law.
- (f) **Sales Tax Qualification.** All applicants for retail licenses shall provide proof, as required by Sec. 77.61(11), Wis. Stats., that they are in good standing for sales tax purposes (i.e., hold a seller's permit) before they may be issued a license.
- (g) **Connecting Premises.** Except in the case of hotels, no person may hold both a "Class A" license and either a "Class B" license or permit, a Class "B" license or permit, or a "Class C" license for the same premises or for connecting premises. Except for hotels, if either type of license or permit is issued for the same or connecting premises already covered by the other type of license or permit, the license or permit last issued is void. If both licenses or permits are issued simultaneously, both are void.
- (h) **Limitations on Other Business; Class "B" Premises.** No Class "B" license or permit may be granted for any premises where any other business is conducted in connection with the premises, except that this restriction does not apply if the premises for which the Class "B" license or permit is issued is connected to premises where other business is conducted by a secondary doorway that serves as a safety exit and is not the primary entrance to the Class "B" premises. No other business may be conducted on premises operating under a Class "B" license or permit. These restrictions do not apply to any of the following:
  - (1) A hotel.
  - (2) A restaurant, whether or not it is a part of or located in any mercantile establishment.
  - (3) A combination grocery store and tavern.

- (4) A combination sporting goods store and tavern in towns, villages and 4th class cities.
  - (5) A combination novelty store and tavern.
  - (6) A bowling alley or recreation premises.
  - (7) A club, society or lodge that has been in existence for six (6) months or more prior to the date of filing application for the Class "B" license or permit.
- (i) **Restrictions Near Schools and Churches.** No retail Class "A", Class "B", "Class A" or "Class B" license shall be issued for premises, the main entrance of which is less than three hundred (300) feet from the main entrance of any established public school, parochial school, hospital or church. Such distance shall be measured by the shortest route along the highway from the closest point of the maintenance entrance of such school, church or hospital to the main entrance to such premises. This Subsection shall not apply to premises licensed as such on June 30, 1947, nor shall it apply to any premises licensed as such prior to the occupation of real property within three hundred (300) feet thereof by any school building, hospital building or church building.

## **Sec. 7-2-8 Investigation.**

The Village Administrator shall notify the Fire Inspector, Building Inspector, and, as appropriate, pertinent law enforcement agencies of each new application, and these officials shall inspect or cause to be inspected each application and the premises, together with such other investigation as shall be necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto, including those governing sanitation in restaurants, and whether the applicant is a proper recipient of a license. These officials shall furnish a written report(s) to the Village Administrator, who shall forward to the Village Administrator the information derived from such investigation, accompanied by a recommendation as to whether a license should be granted or refused. No license shall be renewed without a re-inspection of the premises and report as originally required.

## **Sec. 7-2-9 Approval of Application.**

- (a) **Unpaid Taxes and Municipal Obligations.** No license shall be issued for operation on any premises or with any equipment for which property taxes, personal property taxes, utility bills, assessments, forfeitures or other financial claims of the Village of Rio are delinquent and unpaid. This prohibition shall not apply to applications for operator's licenses.
- (b) **Sanitary, Health and Safety Standards.** No license shall be issued unless the premises conform to the fire, sanitary, safety and health requirements of the State and Village Building Code, the regulations of the State Board of Health and local Board of Health applicable to restaurants, and State and Village Fire Codes. The premises shall be properly lighted and ventilated, be equipped with separate sanitary toilet and lavatory facilities equipped with running water for each sex, and conform to all Ordinances of the Village of Rio.

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

## **Sec. 7-2-10 Granting of License.**

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

## **Sec. 7-2-11    Transfer of License; Temporary Change of Licensed Place.**

- (a) **Transfer of Licenses.** In accordance with the provisions of Sec. 125.04(12), Wis. Stats., a license shall be transferable from one premises to another if such transfer is first approved by the Village Board. An application for transfer shall be made on a form as directed by the Village Administrator. Proceedings for such transfer shall be had in the same form and manner as the original application. The fee for such transfer is as established in Section 1-3-1. Whenever a license is transferred, the Village Administrator shall forthwith notify the Wisconsin Department of Revenue of such transfer. In the event of the sale of a business or business premises of the licensee, the purchaser of such business or business premises must apply to the Village for reissuance of said license and the Village of Rio, as the licensing authority, shall in no way be bound to reissue said license to said subsequent purchaser.
- (b) **Change in Corporate Agent.** Whenever the agent of a corporate holder of a license is for any reason replaced, the licensee shall give Village Administrator written notice of said replacement, the reasons therefor and the new appointment. Until the next regular meeting or special meeting of the Village Board, the successor agent shall have the authority to perform the functions and be charged with the duties of the original agent. However, said license shall cease to be in effect upon receipt by the Village Administrator of notice of disapproval of the successor agent by the Wisconsin Department of Revenue or other law enforcement officers of the municipality in which the license was issued. The corporation's license shall not be in force after receipt of such notice or after a regular or special meeting of the Village Board until the successor agent or another qualified agent is appointed and approved by the Village of Rio.
- (c) **Temporary Change of Licensed Place or Premises.** A license holder may apply not more than one (1) time during each license year for a temporary change of his/her/its licensed place or premises. Such a change by the Village Board may be allowed solely for the purpose of authorizing the holding of a special event or picnic at a location in the Village of Rio which is either separate or distinct from the original licensed place or premises or which includes additional premises, whether in or out of doors, beyond that described in the original approved application. Each such request shall be subject to a review and recommendation by the Police Department and such conditions as may be imposed by the Village Board deemed to be in the best interests of the Village in protecting the safety, health and welfare of the public, including, but not limited to, the posting of a bond in an amount required by the Village and/or making arrangements for enforcement of alcohol law and ordinance requirements. The Village of Rio reserves the right to deny a temporary change of licensed place or premises. No such temporary change of premises permit change shall be valid for more than three (3) days. Permits for outdoor consumption or outdoor events at a licensed premises, such as, but not limited to, outdoor sports and beer/beverage garden activities, are regulated by Section 7-2-19.

**Cross-Reference:** Section 7-2-19.

## **Sec. 7-2-12    Numbering of License.**

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

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

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

## **Sec. 7-2-14    Conditions of License.**

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

- (a) **Premises Inspections; Consent to Entry.** It shall be a condition of any license issued hereunder that the licensed premises, delivery vehicles and any of the business' books of account, bank statements, billings, invoices, accounts receivable records and any other documents relating specifically to the licensed business may be entered/inspected at any reasonable hour by any law enforcement officer of the Village of Rio without a warrant for the purpose of determining whether the taxes imposed by Secs. 139.01 to 139.25, Wis. Stats., have been fully paid and whether Ch. 125, Wis. Stats., and Village of Rio ordinances are being complied with. The licensee consents, as a condition of license, to the introduction of such items in evidence in any enforcement action or prosecution that may be brought for such offenses.
- (b) **Employment of Minors.** No retail licensed business under this Chapter shall employ any person under age eighteen (18), but this shall not apply to hotels and restaurants. Family members may work on the licensed premises but are not permitted to sell or dispense alcoholic beverages.
- (c) **Disorderly Conduct Prohibited.** Each licensed premises shall, at all times, be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.

- (d) **Licensed Operator on Premises.** There shall be upon premises, and in visual control of such premises, operated under a "Class B", Class "B", or "Class C" license, at all times, the licensee, members of the licensee's immediate family who have attained the legal drinking age, and/or some person who shall have an operator's license issued by the Village of Rio, and who shall be responsible for the acts of all persons serving as waiters, or in any other manner, any fermented malt beverages to customers. No person other than the licensee shall serve fermented malt beverages in any place operated under a "Class B", Class "B", or "Class C" license unless he/she possesses an operator's license, or there is a person with an operator's license upon said premises at the time of such service.
- (e) **Health and Sanitation Regulations.** The rules and regulations of the State Board of Health governing sanitation in restaurants shall apply to all "Class B" liquor or "Class C" licenses issued under this Chapter. No "Class B" or "Class C" license shall be issued unless the premises to be licensed conform to such rules and regulations.
- (f) **Clubs.** No licensee shall give away or provide anyone on the premises with free alcohol, except a club may sell or give away any alcohol beverages to bona fide members and guests invited by members.
- (g) **Gambling Regulations; Video Gambling Machines.** For purposes of this Section, "gambling machine" shall be as defined in Sec. 945.01, Wis. Stats. Except as authorized by state law, no gambling or game of chance of any type shall be permitted in any form upon any premises licensed under this Chapter or the laws of the State of Wisconsin. The premises for which a Class "B" or "Class B" license has been issued may have not more than five (5) video gambling machines on the licensed premises for entertainment purposes. The regulation and penalties of gambling machines shall be as prescribed in Secs. 945.02 – 945.041, Wis. Stats.
- (h) **Credit Prohibited.** No retail Class "A", Class "B", "Class A", "Class B", or "Class C" liquor, wine, or fermented malt beverage licensee shall sell or offer for sale any alcohol beverage to any person or persons by extending credit, except hotel credit extended to a resident guest or a club to a bona fide member. It shall be unlawful for such licensee or permittee to sell alcohol beverages to any person on a passbook or store order or to receive from any person any goods, ware, merchandise or other articles in exchange for alcohol beverages.
- (i) **Licensee or Permittee Responsible for Acts of Help.** A violation of this Chapter by a duly authorized agent or employee of a licensee or permittee under this Chapter shall constitute a violation by the licensee or permittee. Whenever any licensee or permittee under this Chapter shall violate any portion of this Chapter, proceedings for the suspension or revocation of the license or permit of the holder thereof may be instituted in the manner prescribed in this Chapter.
- (j) **Indoor Pyrotechnic Displays Prohibited.** No indoor pyrotechnic display or fireworks display of any kind is allowed in the licensed premises, nor any unlicensed property attached to the licensed premises.

- (k) **Timely Commencement of Business.** Timely commencement of business and continuation of business is an ongoing condition of an alcohol beverage license issued under this Chapter. The Village Board may cancel or not renew any license pursuant to this Chapter if any of the following occurs:
  - (1) The privileges granted under the license are not exercised within ninety (90) days after the granting of the license;
  - (2) The business for which the license was issued is discontinued; or the business was not opened for business for the purpose of the license for a period of ninety (90) consecutive days or more; or the business was only open intermittently for period of one hundred fifty (150) days or less during the term of such license.
- (l) **Open Container.** It shall be unlawful for any person to whom a license has been granted to permit any person to leave the licensed premises with an open container containing any alcohol beverages.
- (m) **Sell or Serve on Public Street.** It shall be unlawful for any person to sell or serve, or offer to sell or serve any alcoholic beverages upon any public street within the Village of Rio except in areas holding a sidewalk café permit pursuant to Section 7-2-22.
- (n) **Online Ordering and Curbside Pickup of Alcohol Beverages.**
  - (1) **General Licensing Requirements.**
    - a. No licensed establishment shall allow online purchases of alcohol beverages and curbside delivery of such purchases, commonly called a "click and collect" purchase, without first obtaining a change of premises authorization from the Village to license that portion of the establishment's parking lot that will allow vehicles to park for purposes of picking up their online order.
    - b. The licensed establishment shall file a detailed operations plan with their change of premises application which clearly explains how their click and collect operation would function. The operations plan shall include the licensee's protocol for assuring that underage or intoxicated persons do not pick up alcohol through the click and collect system.
    - c. The failure of a licensee to provide a detailed operations plan with their change of premises application shall result in the application not being considered.
  - (2) **Compliance Requirements.**
    - a. No establishment holding an alcohol beverage license shall allow online purchase and pickup of alcohol beverages unless the sale is consummated on the licensed premises. Alcohol purchases shall be clearly indicated on the sales receipt.
    - b. The pickup area for click and collect purchases shall be clearly defined with visible markings, signs and/or barriers.
    - c. Payment for the purchase shall be completed on the licensed premises and the transaction may not be completed until the purchaser is physically at the licensed premises and has presented valid photo identification that has been verified by a licensed operator employed by and on the premises of the licensed location.



- d. The licensed operator shall verify that the person who has placed the click and collect order is the same person collecting the order. A third-party identification card is not acceptable.
  - e. If the click and collect purchaser is not the driver of the vehicle into which the order is being loaded, the licensed operator shall verify that the driver is a minimum of twenty-one (21) years old.
  - f. The sale and delivery of click and collect purchases shall be made only by a licensed operator.
  - g. The licensed operator shall report to his/her manager any click and collect purchaser who shows signs of alcohol consumption, and in conjunction with the manager, shall assess sobriety for purposes of approving or denying the sale.
  - h. No alcohol purchase is permitted if the purchaser fails to present valid photo identification.
  - i. The click and collect system used by a licensee must be such that when the sale of alcohol is denied other non-alcohol purchases are not affected.
- (3) **Customer Information to be Obtained and Retained.**
- a. An image (digital photograph, security camera system, etc.) shall be captured and retained by the licensee of each vehicle being loaded with a click and collect transaction involving the sale of alcohol. Such image shall be retained a minimum of thirty (30) days.
  - b. For each click and collect transaction involving alcohol sales, the seller shall collect and retain for thirty (30) days the following information:
    - 1. The name of the purchaser.
    - 2. The purchaser's date of birth.
    - 3. The type of photo identification presented and the expiration date of that identification card.
    - 4. The license plate number and state of issuance of the vehicle into which the order is being loaded.
- (4) **Restrictions on Time of Sales.**
- a. Pick up of click and collect alcohol beverage orders shall be between the hours of 8:00 a.m. and 8:00 p.m. Orders placed after 3:00 p.m. cannot be picked up until the following day.
  - b. No events other than the delivery of click and collect orders shall be allowed within the area of the expanded licensed premises.
- (o) **Video Surveillance Equipment.** Video surveillance equipment may be required to be installed and operable in licensed establishments. Video surveillance is a condition of license when required to assist in ensuring compliance with state and local regulations and maintaining public health and safety.

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

## **Sec. 7-2-15 Closing Hours.**

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

(a) **Class "B" Licenses.**

- (1) No premises for which a retail "Class B" liquor, Class "B" fermented malt beverage, or "Class C" wine license has been issued shall be permitted to remain open for the sale of liquor or fermented malt beverages or for any other purpose between the hours of 2:00 a.m. and 6:00 a.m., Monday through Friday, and 2:30 a.m. and 6:00 a.m., Saturday and Sunday. There shall be no closing hours on January 1st.
- (2) Hotels and restaurants, the principal business of which is the furnishing of food or lodging to patrons, bowling alleys, indoor horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business but shall not sell liquor or malt beverages during the closing hours of Subsection (a)(1) above.
- (3) No person may serve wine after 9:00 p.m. on premises licensed by a Temporary "Class B" wine license issued as provided in Section 125.51(10)b and Section 7-2-4(h) of this Code of Ordinances.

- (b) **Carryout Hours.** Between 9:00 p.m. and 8:00 a.m., no person may sell, remove, carry out or permit to be removed or carried out from any premises having a "Class A" or Class "A" license, intoxicating liquor in original unopened packages, containers or bottles or for consumption away from the premises. On "Class B" intoxicating liquor, Class "B" fermented malt beverage or Class "A" fermented malt beverage licensed premises, carryout shall be prohibited between 12:00 midnight and 6:00 a.m.

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

It shall be unlawful for any person or organization on a temporary basis to sell or offer to sell any alcohol beverage upon any Village-owned property or privately-owned property within the Village of Rio, except through the issuance of a Temporary Class "B" Fermented Malt Beverage License, Temporary "Class B" Wine License or temporary change of licensed place permit under Section 7-2-11(c) issued by the Village of Rio in accordance with Wisconsin Statutes and as set forth in this Section. A Temporary Class "B" Fermented Malt Beverage License or Temporary "Class B" Wine License authorizing the sale and consumption of beer and/or wine on Village-owned property or privately-owned property may be authorized by the Village Board provided the following requirements are met:

- (a) **Compliance with Eligibility Standards.** The organization shall meet the eligibility requirements of a bona fide club, association, lodge or society as set forth in Sec. 125.26(6), Wis. Stats., and shall fully comply with the requirements of this Section and

Section 11-4-1. Members of an organization which is issued a temporary license and who are issued operator's licenses for the event may be required to attend a pre-event informational meeting to learn what rules and regulations apply and what the responsibilities of the bartenders and organization will be.

- (b) **Posting of Signs and Licenses.** All organizations issued a temporary license shall post in a conspicuous location at the main point of sale and at all remote points of sale a sufficient number of signs stating that no fermented malt beverage shall be served to any under-age person and that proper identification may be required.
- (c) **Fencing.**
  - (1) If necessary due to the physical characteristics of the site, the Village Board may require that organizations install a double fence around the main point of sale to control ingress and egress and continually station a licensed operator, security guard or other competent person at the entrance for the purpose of checking age identification. Where possible, there shall be only one (1) point of ingress and egress. When required, the double fence shall be a minimum of four (4) feet high and a minimum of six (6) feet between fences.
  - (2) For indoor events, the structure used shall have suitable exits and open spaces to accommodate anticipated attendance. It should contain adequate sanitary facilities to accommodate the size of the group.
- (d) **Underage Persons Prohibited.** Except as provided in Section 7-2-4(h)(2)e regarding temporary wine licenses, no underage persons, as defined by the Wisconsin Statutes, shall be allowed to assist in the sale of fermented malt beverages or wine at any point of sale, nor shall they be allowed to enter or linger in the area of any point of sale.
- (e) **Licensed Operators Requirement.** A licensed operator shall be stationed at all points of sales at all times.
- (f) **Waiver.** The Village Board may waive or modify the requirements of this Section due to the physical characteristics of the licensed site.
- (g) **Insurance.** The applicant for a temporary fermented malt beverage or wine license may be required to indemnify, defend and hold the Village and its employees and agents harmless against all claims, death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the license, the applicant may be required to furnish a Certificate of Comprehensive General Liability insurance with the Village of Rio. The applicant may be required to furnish a performance bond prior to being granted the license.

*Cross Reference:* Section 11-4-1.

## **Sec. 7-2-17    Revocation or Suspension of Licenses; Demerit Point System; Non-Renewal.**

- (a) **Procedure.** Whenever the holder of any license under this Chapter violates any portion of this Chapter or Title 11, Chapter 4, of this Code of Ordinances, proceedings for the

revocation of such license may be instituted in the manner and under the procedure established by this Section.

- (b) **Failure to Timely Commence Business; Ceased Regular Operations; Loss of Premises.** A license issued under this Chapter may be revoked or not renewed in the event of any of the following situations occurring:

(1) **Failure to Timely Commence Business.** Timely commencement of business at a licensed premises is an ongoing condition of an alcohol beverage license issued under this Chapter. The Village Board may revoke, or not renew, any such license issued if the privileges granted under the license are not exercised within ninety (90) days after the granting of the license.

(2) **Loss of Premises.** Any licensee holding a license issued under this Chapter who loses the right to operate at that licensed premises shall forfeit any right he/she may have to the continued holding, or renewal, of such license without a license transfer approved by the Village. Abandonment of the premises shall be sufficient grounds for license revocation. The loss of the right to conduct business at the licensed premises due to foreclosure, loss of a lease or similar occurrence for a period of ninety (90) continuous days or more shall be prima facie evidence of such abandonment, unless such time is extended or the license is transferred by specific action by the Village Board.

(3) **Ceased Regular Operations; Intermittent Operations.**

a. Being open for business on a regular basis is an ongoing condition of an alcohol license issued under this Chapter. Failure to satisfy any of the following requirements may result in the revocation or nonrenewal of such license. A licensed establishment is deemed to have ceased required regular operations, or operates only on an intermittent basis resulting in the circumventing of the requirements of this Section, when any of the following occurs:

1. The business for which the license was issued is discontinued; or the business was not open for business to the public for the purpose of the license for a period of ninety (90) continuous days or more; or the business was only open intermittently for a period of one hundred fifty (150) days or less during the term of such license, unless such license was issued for a term of less than one hundred eighty (180) days, in which case this Subsection shall not apply; or
2. The alcohol beverage license is surrendered to the Village Administrator absent the issuance of a newly-granted license; or
3. The alcohol beverage license holder fails to maintain open and active accounts with its alcohol and/or food distributors; or
4. The alcohol beverage license holder fails to submit a renewal application to the Village Administrator before the required submittal date.

b. An establishment licensed under this Chapter is not deemed to have ceased regular operations if it is temporarily closed due to remodeling, fire or storm

damage, or any type of license suspension and the requirements of this Subsection are met. Upon the occurrence of such an event, the Village may require that the licensee provide documentation regarding proof of good faith efforts to restore the damaged premises within a reasonable time, including, but not limited to, a written agreement with a contractor for performing the repair work within a specific completion timeline, a written statement by the license holder committing to a specific timeline for restoration completion if the license holder is personally performing the work, a copy of the order(s) for necessary repair materials, etc. The Village reserves the right to determine if such information provided is adequate to satisfy the requirements of this Subsection for a temporary exception; the Village may impose a restoration compliance timeline as a condition of license.

- (c) **License Revocation or Suspension.** License revocation or suspension procedures shall be as prescribed by Chapter 125, Wis. Stats.
- (d) **Point Values for Alcohol Beverages Violations, Revocations and Suspensions.**
  - (1) **Purpose and Definitions.** The purpose of this Subsection is to administratively interpret those portions of this Chapter, and related Code of Ordinances provisions, regarding the establishment of an alcohol beverage demerit point system to assist in determining if a license or permit holder should be subject to suspension or revocation procedures. The demerit point values and procedures described in this Section shall apply to the suspension or revocation of alcohol beverage licenses, Outdoor Consumption Permits, and Outdoor Events Permits issued under this Chapter.
  - (2) **Point Schedule.** The scale of demerit points is listed according to the type of alcohol beverage violation. This demerit point system is used to identify habitually troublesome license or permit holders who have repeatedly violated state statutes and Village Ordinances for the purpose of recommending suspension or revocation of their alcohol beverage licenses and/or permits issued under this Chapter.

Type of Violation	Point Value
1. Sale of alcohol beverages without license or permit; sale of a controlled substance on licensed premises	100
2. Consumption of alcohol beverages after closing hours on licensed premises by licensee, bartender or employee	100
3. Possession or use of a controlled substance on licensed premises by licensee, bartender or employee	100

4. Use of a controlled substance on licensed premises by a patron	50
5. After hours consumption of alcohol beverages by a patron	50
6. Sale of alcohol beverages to underage person	50
7. Sale of alcohol beverages to intoxicated person	50
8. Underage person on premises	50
9. Intoxicated bartender; disorderly conduct on premises	50
10. Refusal to allow lawful search of the premises or refusal to cooperate with lawful police investigation	50
11. Assault of a police officer by licensee or operator	50
12. Outdoor serving/consumption without a permit	50
13. Outdoor event outside licensed premises without a permit	50
14. Transfer of license/permit without authorization	50
15. False statement on original application	50
16. Failure to post license	50
17. Open after permitted hours	50
18. Outdoor Consumption/Event Permit – open after hours	50
19. Outdoor Consumption/Event Permit – unauthorized sound or music	50

20. Outdoor Consumption/Event Permit – violation of other permit restrictions	50
21. Noise disturbing the public	50
22. Licensee, agent or operator not on premises at all times	25
23. Persons on premises after closing hours; illegal gambling on premises; smoking or vaping activity violating state/local law	25
24. Violations of carry-out hours	25
25. Licensee permitting person to leave licensed premises with open alcohol beverage; click and collect violations	25
26. Unsanitary conditions	25
27. Unlawful quantities in containers	25
28. All other violations of a state statute or local ordinances	25

(3) **Violations How Calculated.** A twelve (12) month rolling period shall be used in determining the accumulated demerit points against a license/permit holder. The Village of Rio shall use the date each violation was committed as the basis for the determination. A licensee/permittee is automatically assessed demerit points in accordance with the schedule in this Section upon a conviction or adjudication of a violation.

(4) **Suspension or Revocation of License.**

- a. A licensee whose accumulated demerit points reach the threshold for license suspension or revocation shall, before such actions are taken, first come before the Village Board or a committee thereof. The purpose of such meeting is to inform the licensee that a demerit point threshold has been reached, or soon will be, and to discuss possible ways to remedy such violations. If warranted by the seriousness of the violations, the Village reserves the right to proceed directly to Subsection (d)(4)b-d below.

- b. The Village Board shall call before it for purposes of revocation or suspension hearing all licensees who have accumulated one hundred (100) points in a twelve (12) month rolling period as a result of court imposed convictions or adjudications.
- c. If the demerit point accumulation calculated from the date of violation meets or exceeds one hundred (100) points in a rolling twelve (12) month period, one hundred and fifty points in a twenty-four (24) month period or two hundred (200) points in a thirty-six (36) month period, a suspension of not less than three (3) days and nor more than ninety (90) days shall be imposed. If the license/permit is revoked, no other license/permit shall be granted to such licensee/permittee or for such premises for a period of twelve (12) months from the date of revocation. The point accumulation totals in this Subsection shall be cumulative, so that a previous offense within the relevant time period may be considered for purposes of the suspension/revocation imposed regardless of whether such previous offense resulted in a prior suspension or other penalty.
- d. Demerit points that are assessed or any suspension or revocation imposed against one license/permit shall not affect the continued use of any other license/permit held by the licensee/permittee issued under this Chapter. The Village Board may also initiate a revocation or suspension hearing of a licensee who is subject to a pending criminal charge, or who has been convicted of any felony, misdemeanor or other offense that the circumstances of which substantially relate to the licensed activity regardless of whether such charge or conviction is included in the demerit point schedule.
- e. The procedure to be used for suspension or revocation shall be that found in Subsection (c) above.

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

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

- (a) **Notice of Event.** The licensee or agent of a corporate licensee shall notify the Village Administrator and Police Department at least forty-eight (48) hours in advance of the date of any event at which underage persons will be present on the licensed premises. Each such non-alcohol event notice shall specify the date(s) on which the event is to occur and the time(s) of commencement. All notices shall be filed with the Village Administrator and Police Department during normal business hours. After a non-alcohol event notice has been given, the licensee may cancel an event(s) only by giving like notice to the Village in accordance with the provisions of this Subsection. Regardless of the date given, all notices



shall expire and be deemed cancelled no later than the date of expiration or revocation of the applicable retail Class "B", "Class B" or "Class C" license.

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

## **Sec. 7-2-19 Outdoor Consumption Permits; Outdoor Events Permits.**

- (a) **Purpose.** The Village Board finds that restrictions are necessary for outdoor consumption of alcohol, such as for, but limited to, beer/beverage gardens and sports activities, at premises holding "Class B" and Class "B" liquor and fermented malt beverages or "Class C" wine licenses in the Village of Rio due to concerns arising from noise, disruptive behavior, density and related problems. This Section enacted pursuant to municipal police powers provides a framework for issuance of permits and regulatory controls for outdoor sports activities, beer/beverage gardens, outdoor entertainment, or similar outdoor consumption activities outside of the licensed premises.
- (b) **Outdoor Consumption Permit Required.**
  - (1) **Generally.** No licensee shall conduct or sponsor any outdoor consumption of activities, such as beer/beverage gardens, on property forming any part of the real property on which the licensed premises exists without the prior approval of the Village Board and issuance of an Outdoor Consumption Permit pursuant to this Section.
  - (2) **Permit Required for Outdoor Consumption.**
    - a. No licensee shall permit the consumption of alcohol beverages on any part of the licensed premises not enclosed within the building, except under an Outdoor Consumption Permit granted by the Village Board. Such permits are a privilege in which no rights vest and, therefore, may be revoked by the Village Board at

- its pleasure at any time or shall otherwise expire on June 30 of each year or as specified in the permit.
- b. No person shall consume or have in his or her possession alcohol beverages on any unenclosed part of a licensed premises which is not described in a valid Outdoor Consumption Permit.
  - c. The Village Board may also issue limited duration temporary permits for specified times for special events to be conducted on outdoor areas at licensed areas per Section 7-2-11(c).
- (c) **Permit Required for Outdoor Events/Activities.** No licensee shall conduct, permit or sponsor any outdoor sports activity, live music, or other outdoor event on the licensee's property outside of the licensed building without an Outdoor Event Permit granted by the Village Board. Outdoor Event Permits are a privilege and no rights shall vest in the permit holder; the Village Board may suspend or revoke the Outdoor Event Permit at any time. Annual permits for outdoor events shall expire on June 30 of each year or at such time specified in the permit.
- (d) **Applications for Outdoor Consumption Permits.** All applicants for an Outdoor Consumption Permit must hold a Class "B" or "Class B" license under this Chapter. Applicants shall file an application with the Village Administrator, with the required fee per Section 1-3-1, providing the following information:
- (1) Name of the licensee and address of the licensed premises;
  - (2) Licensee's telephone number and email address;
  - (3) If the application is not for an annual permit, the requested effective date and duration of the permit;
  - (4) An accurate description of the boundary of the area that the licensee seeks to be authorized under a permit and a list of all property owners and their addresses within one hundred and fifty (150) feet of such boundary;
  - (5) A description of the fencing, screening or other measures intended to establish and shield the boundaries of the outdoor consumption area; and
  - (6) A description of the licensee's plan for operating and controlling the outdoor consumption area.
- (e) **Applications for Outdoor Event Permits.** Applications for Outdoor Event Permits shall be filed with the Village Administrator no less than thirty (30) days before the date of the proposed event; the Village Board, however, may reduce this time limit upon showing of exigent circumstances. Applicants shall file an application with the Village Administrator, with the required fee per Section 1-3-1, providing the following information:
- (1) The name, address, telephone number and email address of the person or persons who will be responsible for the actual conduct of the activity or event;
  - (2) The date and duration of time for the proposed activity or event, or if the application is for an annual Outdoor Event Permit, a good faith estimate of the frequency of such events;

- (3) An accurate description of the boundary of the area that the licensee seeks to be authorized under a permit, and a list of all property owners and their addresses within one hundred and fifty (150) feet of such boundary;
  - (4) A good faith estimate of the number of users, participants and spectators for the beer/beverage garden or proposed activity or event; and
  - (5) The licensee's plan for maintaining the cleanliness of the licensed area.
  - (6) A description of the fencing, screening or other measures intended to establish and shield the boundaries of the outdoor event area;
  - (7) A description of the licensee's plan for operating and controlling the outdoor consumption area, including plans regarding security, lighting and amplified sound.
- (f) **Notification of Application to Adjoining Property Owners.** The Village Administrator shall notify by first class mail all property owners, within one hundred fifty (150) feet of the proposed outdoor consumption area or outdoor event area, that an application for a permit has been submitted.
- (g) **Notice And Consultation With Village Officials.** The Village Administrator shall notify the Chief of Police within seven (7) days of receiving an application for an Outdoor Consumption Permit or Outdoor Event Permit and provide each such official with a copy. The Village Administrator, Chief of Police and other relevant Village officials, or their representatives, shall meet with the applicant, perform an on-site inspection of the premises, and review the details of the proposed operational plan submitted by the applicant. The Village Administrator and/or Chief of Police shall report to the Village Board any additional details or information provided by the applicant that is not contained in the original application.
- (h) **Review of Outdoor Consumption Permit Applications – Standards.** The Village Board shall review Outdoor Consumption Permit applications in light of the objectives of this Section and recommendations from Village officials. The following standards shall be applicable and are conditions applicable to any Outdoor Consumption Permit:
- (1) The outdoor sale of alcohol beverages (bar setup) in the outdoor consumption area is not permitted unless approved by the Village Board. Approval of an Outdoor Consumption Permit application shall not act to permit outdoor consumption of alcohol beverages on the property beyond the area specifically authorized by permit pursuant to this Section.
  - (2) The designated outdoor consumption area should be located away from residential structures as much as possible, with a desired distance of a least one hundred (100) feet from any area zoned for residential use, except for conditional residential uses, mixed use premises within business districts, or residential uses located in the same licensed structure. This requirement may be increased or decreased at the discretion of the Village Board if unique site characteristics exist.
  - (3) The outdoor consumption area shall be less than fifty percent (50%) of the gross floor area of the adjoining premises within the licensed building.

- (4) The outdoor consumption area shall be clearly designated and enclosed with a physical boundary such as a fence, wall, or other screening approved by the Village Board not less than three (3) feet in height. The Village Board may require further enclosure or screening surrounding the outdoor consumption area to reduce noise, enhance aesthetics, and to otherwise further the purposes of this Section.
  - (5) The only entrance to the outdoor consumption area shall be through the principal building of the licensed premises unless an alternate entrance is fully supervised during operation. A licensed operator shall be responsible for supervising the outdoor consumption area at all times during which the outdoor consumption area is in operation.
  - (6) Unless exceptional circumstances exist, as determined by the Village Board, the outdoor consumption area shall be at ground level. Unless a special waiver is granted by the Village Board, no outdoor consumption area shall be located closer than five (5) feet to a public right-of-way.
  - (7) The outdoor consumption area design and plan for operation should have minimal adverse impacts on existing or potential surrounding land uses, public safety, and the general welfare of the Village. The Village Board may impose additional conditions on the permit, such as, but not limited to, restrictions on hours of operation, on amplified music and sound, on outdoor lighting, the need to obtain an Outdoor Events Permit, and other restrictions intended to further the purposes of this Section.
  - (8) An Outdoor Consumption Permit shall only be issued if the licensed premise conforms to all applicable Village ordinances, including, but not limited to, zoning, fire code, health and safety, etc., ordinances.
  - (9) The Village Board shall consider the recommendations and reports of Village officials in making determinations regarding Outdoor Consumption Permit applications.
- (i) **Review of Outdoor Events Permit Applications – Standards.** The Village Board shall review Outdoor Events Permit applications in light of the objectives of this Section and recommendations from Village officials. The following standards shall be applicable and are conditions applicable to any Outdoor Events Permit:
- (1) The outdoor sale of alcohol beverages (bar setup) in the outdoor events area is not permitted unless approved by the Village Board. If outdoor consumption of alcohol is intended, the applicant shall be required to obtain a valid Outdoor Consumption Permit. Approval of an Outdoor Events Permit application shall not act to permit outdoor consumption of alcohol beverages on the property beyond the area specifically authorized by issuance of an Outdoor Consumption Permit pursuant to this Section.
  - (2) The designated outdoor events area should be located away from residential structures as much as possible, with a desired distance of at least one hundred (100) feet from any area zoned for residential use, except for conditional residential uses, mixed use

premises within business districts, or residential uses located in the same licensed structure. This requirement may be increased or decreased at the discretion of the Village Board if unique site characteristics exist.

- (3) Parking should be adequate for the proposed event(s).
- (4) The outdoor events area shall be clearly designated and enclosed with a physical boundary such as a fence, wall, or other screening approved by the Village Board not less than three (3) feet in height. The Village Board may require further enclosure or screening surrounding the outdoor events area to reduce noise, enhance aesthetics, and to otherwise further the purposes of this Section.
- (5) The design and plan of the outdoor events boundary area should allow for reasonable access for participants and spectators and should restrict access for all other persons. If an Outdoor Consumption Permit is also issued, a licensed operator shall be responsible for supervising the outdoor events area at all times during which the outdoor events area is in operation.
- (6) Unless exceptional circumstances exist, as determined by the Village Board, the outdoor events area shall be at ground level. Unless a special waiver is granted by the Village Board, no outdoor events area shall be located closer than five (5) feet to a public right-of-way.
- (7) The outdoor events area design and plan for operation should have minimal adverse impacts on existing or potential surrounding land uses, public safety, and the general welfare of the Village of Rio. The Village Board may impose additional conditions on the permit, such as, but not limited to, restrictions on hours of operation, on amplified music and sound, on outdoor lighting, and other restrictions intended to further the purposes of this Section. Any amplified sound or music for the event(s) shall not exceed seventy-five (75) dB, measured at any boundary of the licensee's real property. Amplified music is only permitted if authorized in the Outdoor Events Permit.
- (8) Sanitary facilities shall be adequate for the estimated frequency of events and the number of anticipated participants. The Village Board may require additional temporary restroom facilities to protect the public health.
- (9) All garbage, debris, and other refuse from the event(s) shall be disposed of a minimum of once every twenty-four (24) hours during the activity and within twenty-four (24) hours after the event.
- (10) Outdoor volleyball courts, horseshoe pits, or other similar such sports areas shall cease operation after 11:00 p.m. of each day in such outdoor areas.
- (11) An Outdoor Events Permit shall only be issued if the licensed premise conforms to all applicable Village ordinances, including, but not limited to, zoning, fire code, health and safety, etc., ordinances.
- (12) The Village Board shall consider the recommendations and reports of Village officials in making determinations regarding Outdoor Events Permit applications.

(j) **Fencing.**

- (1) A Class "B" fermented malt beverage and/or intoxicating liquor or "Class C" wine license holder whose premises are expanded to front, rear and/or side yard outdoor

areas such as patios, volleyball pits, outdoor sports areas, beer/beverage gardens and the like may be required to install fencing around the perimeter of the outside premises. Such fencing may consist of Village Board-approved wire mesh, solid vegetation, wood, plastic, or other similar material or a wall which will provide for an enclosed area on the outside of the licensed premises. Such barrier shall be a minimum of three (3) feet in height. The Village Board may modify or waive these fencing/screening requirement when a front yard use is proposed.

- (2) Prior to installation of such fencing, screening or wall, a diagram of the proposed barrier shall be submitted to the Village to ensure that the proposed barrier will adequately protect neighbors, limit noise, and prevent or limit access by underage individuals, while still providing sufficient visibility to law enforcement and other authorities to ensure the premises is complying with alcohol beverage and other requirements.
- (3) That in lieu of the fencing or barrier required above, the Village may authorize the use of security personnel to patrol such outdoor premises on a full time basis during such times that the outdoor premises are open for business.
- (4) Access to the outdoor consumption or event area shall *only* be through the main entrance to the Class "B" intoxicating liquor, Class "B" fermented malt beverage, and "Class C" wine licensed premises.

(k) **State Statutes Enforced.**

- (1) Every permittee under this Section shall comply with and enforce all provisions of Chapter 125, Wis. Stats., applicable to Class "B" licensed premises, except insofar as such provisions are clearly inapplicable. Violation of the provisions of Chapter 125, Wis. Stats., shall be grounds for immediate revocation of the Outdoor Consumption Permit or Outdoor Events Permit by the Village Board.
  - (2) All applicable statutes and ordinances shall be in full force and effect.
- (l) **Authority to Suspend Outdoor Alcoholic Beverages Permit.** Law enforcement officers shall have the authority to order any outdoor area regulated under this Section to be closed down at any time an Officer believes its continued operation is in violation of this Section, any other applicable Village ordinance, or provisions of Ch. 125, Wis. Stats.
- (m) **Violations.** Failure of the licensee to comply with any of the provisions of this Section shall be grounds for suspension, nonrenewal or revocation of the licensee's alcohol beverage license or permits under this Section.

## **Sec. 7-2-20    Nude Dancing in Licensed Establishments Prohibited.**

(a) **Authority.**

- (1) The Village Board of the Village of Rio has explicit authority under Sec. 125.10(1), Wis. Stats., to adopt regulations governing the sale of alcohol beverages which are in addition to those set forth in Ch. 125, Wis. Stats.; and

- (2) The Village Board has authority under its general police powers set forth in Ch. 61, Wis. Stats., to act for the good order of the municipality and for the health, safety and welfare of the public; and may carry out its powers by regulation and suppression; and
- (3) The Village Board recognizes it lacks authority to regulate obscenity per Sec. 66.0107(3), Wis. Stats., and does not intend by adopting this Section to regulate obscenity, since nudity in and of itself is not obscene, it declares its intent to enact an ordinance addressing the secondary effects of live, totally nude, non-obscene, erotic dancing in bars and taverns; and
- (4) Bars and taverns featuring live totally nude, non-obscene, erotic dancing have in other communities tended to further the increase of criminal and other offensive activity, to disrupt the peace and order of the communities, to depreciate the value of real property, to harm the economic welfare of the communities and to negatively affect the quality of life of the communities; and such secondary effects are detrimental to the public health, safety and general welfare of citizens; and
- (5) The Village Board recognizes the U.S. Supreme Court has held that nude dancing is expressive conduct within the outer perimeters of the First Amendment to the United States Constitution and therefore entitled to some limited protection under the First Amendment, and the governing body further recognizes that freedom of speech is among our most precious and highly protected rights, and wishes to act consistently with full protection of those rights; and
- (6) However, the Village Board is aware, based on the experiences of other communities, that bars and taverns in which live, totally nude, non-obscene, erotic dancing occurs may and do generate secondary effects which the governing body believes are detrimental to the public health, safety and welfare of the citizens of the Village of Rio; and
- (7) Among these secondary effects are:
  - a. The potential increase in prostitution and other sex-related offenses, as well as other crimes and offenses;
  - b. The potential depreciation of property values in neighborhoods where bars and taverns featuring nude dancing exist;
  - c. Health risks associated with the spread of sexually transmitted diseases; and
  - d. The potential for infiltration by organized crime for the purpose of unlawful conduct.
- (8) The Village Board desires to minimize, prevent and control these adverse effects and thereby protect the health, safety and general welfare of the citizens of the Village of Rio; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods; and deter the spread of urban blight; and
- (9) The Village Board has determined that enactment of an ordinance prohibiting live, totally nude, non-obscene, erotic dancing in bars and taverns licensed to serve alcohol

beverages promotes the goal of minimizing, preventing and controlling the negative secondary effects associated with such activity.

- (b) **Nude Dancing in Licensed Establishments Prohibited.** It is unlawful for any person to perform or engage in, or for any licensee or manager or agent of the licensee to permit any person, employee, entertainer or patron to perform or engage in any live act, demonstration, dance or exhibition on the premises of a licensed establishment which:
  - (1) Shows his/her genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering; or
  - (2) Shows any portion of the female breast below a point immediately above the top of the areola; or
  - (3) Shows the covered male genitals in a discernably turgid state.
- (c) **Exemptions.** The provisions of this Section does not apply to the following licensed establishments; theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.
- (d) **Definitions.** For purposes of this Section, the term "licensed establishment" means any establishment licensed by the Village Board of the Village of Rio to sell alcohol beverages pursuant to Ch. 125, Wis. Stats. The term "licensee" means the holder of a retail "Class A", "Class B", Class "B", Class "A", or "Class C" licensee granted by the Village Board of the Village of Rio pursuant to Ch. 125, Wis. Stats.
- (e) **Penalties.** Any person, partnership or corporation who violates any of the provisions of this Section shall be subject to a forfeiture pursuant to Section 1-1-6. A separate offense and violation shall be deemed committed on each day on which a violation occurs or continues. In addition, violation of this Section constitutes sufficient grounds for suspending, revoking or non-renewing an alcohol beverage license under Sec. 125.12, Wis. Stats.

## **Sec. 7-2-21 Sidewalk Cafés.**

- (a) **Introduction; Purpose.**
  - (1) No establishment may operate a sidewalk café without first having obtained approval of the Village Board, subject to the conditions of this Section. The provisions of this Section are applicable to all sidewalk cafés whether licensed or not to sell alcohol beverages.
  - (2) There may exist a need for outdoor eating facilities in certain areas of the Village of Rio to provide a unique environment for relaxation, social interaction, and food consumption.



- (3) Sidewalk cafés will permit enhanced use of the available public rights of way, will complement the restaurants operating from fixed premises, and will promote economic activity in an area.
  - (4) The existence of sidewalk cafés encourages commerce but their presence may impede the safe flow of pedestrians. Therefore, a need exists for standards for the existence and operation of sidewalk cafés to ensure a safe environment.
  - (5) The establishment of permit conditions and safety standards for sidewalk cafés is necessary to protect and promote public health, safety and welfare.
- (b) **Definitions.**
- (1) **Sidewalk Café.** An expansion of a full service restaurant creating an outdoor dining facility on part of the public right of way that immediately adjoins the licensed premises for the purpose of consuming food or beverages prepared at the full service restaurant adjacent thereto.
  - (2) **Full Service Restaurant.** An establishment whose food sales are greater than fifty percent (50%) of its gross receipts.
- (c) **Application; Permit Fee.**
- (1) **Application Information.** An application for expansion of the premises or the licensed premises to include a sidewalk café shall be filed with the Village Administrator with the following information:
    - a. The name, address, email address, and telephone number of the person or persons who will be responsible for the sidewalk café;
    - b. An accurate detailed description and/or design including dimensions of the property and the licensee's property, if serving alcohol.
  - (2) **Permit Term.** Each permit shall be effective for one (1) year, from April 1 until March 31.
  - (3) **Transfer.** The permit issued may be transferred to a new owner only for the location and area listed in the permit. The transferred permit shall be valid only for the remainder of the period for which it was originally issued. A new certificate of insurance must be filed with the Village within thirty (30) days of the permit transfer.
  - (4) **Fee.** The application shall be accompanied by payment of a fee as prescribed in Section 1-3-1 for review of the application. The application shall expire on June 30th of each year.
- (d) **Requirements.** Sidewalks cafés approved under this Section shall be subject to the following requirements. The Village Board may impose additional requirements at its discretion:
- (1) **Hours of Operation.** The service and consumption of alcohol beverages in the sidewalk café shall be limited to the hours of operation of the sidewalk café and Village ordinances.
  - (2) **Patrons.**
    - a. Alcohol beverages shall only be served to patrons of the establishment by a properly licensed server in the sidewalk café.

- b. Patrons of the sidewalk café shall remain seated at the table when consuming alcohol beverages.
  - c. Alcohol beverages shall only be served to patrons of the establishment with food service in the sidewalk café.
- (3) **Approved Site.** All sidewalk cafés shall be placed within approved boundaries of the sidewalk café site as determined by the Village Board. The Village Board shall make said determination by considering the following minimum factors: the distance the table and chairs of said café can extend into the sidewalk, upon considering the width of the sidewalk; no obstruction or interference with the public pedestrian walkway or interference with automobile traffic is allowed.
- (4) **Paved Area Requirement.** The entire sidewalk surface for the proposed sidewalk café shall be paved. A "paved surface" includes concrete, asphalt, cement, brick, pavers, or other impervious surface. Paved areas of the establishment's private property may be included within the boundary of the proposed café, if immediately adjacent to the paved public sidewalk. Trash receptacles shall be provided within the sidewalk café.
- (5) **Miscellaneous Requirements.** An establishment is not eligible for a permit if, in the opinion of the Village Board, the sidewalk café has obstructions on the adjacent sidewalk which interfere with the public right-of-way. The sidewalk café shall have at least one (1) unobstructed entrance, the position of which allows sufficient access to the public entrance for ingress and egress from and to the restaurant.
- (e) **Case-by-Determination.** Given unique circumstances, the Village Board may on a case-by-case basis modify or add to the above requirements.
- (f) **Responsibility of Permittee.** The permit holder shall, in addition to all other requirements of the law, the Village of Rio alcohol beverage license, and this Section, take reasonable steps to ensure that alcohol beverages are consumed only by patrons of the establishment who are of legal drinking age, and not by passersby or persons who are not of age or who are obviously intoxicated. Reasonable steps may include, but not be limited to, the use of portable barriers or fences, supervision of the outside area by security and staff personnel, or electronic surveillance monitors. Failure to take reasonable steps and use them at all times in the sidewalk café is grounds for suspension or revocation of the sidewalk café permit.
- (g) **Responsibility of Patrons.** No person shall leave the sidewalk café area listed in the permit with an alcohol beverage. Any person doing so shall be in violation of the Village of Rio outdoor consumption ordinance prohibiting the consumption of alcohol or possession of open containers on the streets.
- (h) **State Statutes Enforced.** Every permittee under this Section shall comply with and enforce all provisions of Ch. 125, Wis. Stats. Violation of the provisions of Ch. 125, Wis. Stats., shall be grounds for immediate revocation of the sidewalk café permit.
- (i) **Violations.** Failure of the permittee to comply with any of the provisions of this Section shall be grounds for suspension, non-renewal or revocation of the sidewalk café permit and/or the licensee's alcohol beverage license or licenses.

**Sec. 7-2-22 Brewpubs.**

- (a) **Definition.** The term "brewpub" shall mean a permittee who has been issued a permit by the Wisconsin Department of Revenue (WisDOR) under Sec. 125.295, Wis. Stats., and which permits a small brewery to be operated in conjunction with a bar or restaurant type establishment for fermented malt beverages consumption on the premises.
- (b) **Statutory Standards.**
  - (1) The manufacture of fermented malt beverages is permissible by a qualified permittee on the brewpub premises provided the entire manufacturing process occurs on the premises and not more than ten thousand (10,000) barrels of fermented malt beverage are manufactured in a calendar year by the permittee's brewpub group. A brewpub's brewpub group may sell, ship and deliver up to one thousand (1,000) barrels of fermented malt beverages in any calendar year to outside retailers. A brewpub may also package and sell in refillable containers exceeding twenty-four (24) ounces in volume ("growlers"), at the request of a customer and sold on the brewpub premises, of fermented malt beverages that have been manufactured on the licensed premises.
  - (2) Section 125.295(2), Wis. Stats., requires that a brewpub also have issued or pending certain Village alcohol beverage licenses and a State-issued restaurant permit under Sec. 254.64, Wis. Stats.
  - (3) In all other respects brewpubs shall comply with the locational and operational requirements for taverns, bars and restaurants under Title 7, Chapter 2 of the Village of Rio Code of Ordinances and zoning requirements of Title 13, Chapter 1 of the Village of Rio Code of Ordinances.

**Sec. 7-2-23 through Sec. 7-2-29 Reserved for Future Use.**



## Article B: Operator's License

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

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

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

### **Sec. 7-2-31 Procedure Upon Application.**

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

information from the State, surrounding municipalities, and/or any community where the applicant has previously resided concerning the applicant's arrest and conviction record. Based upon such investigation, the Chief of Police or other investigating authority, shall recommend, in writing, to the Village Administrator approval or denial of the application. If the Chief of Police or other investigating authority recommends denial, the Chief of Police shall provide, in writing, the reasons for such recommendation. If the Chief of Police recommends approval and the applicant satisfies application criteria, the Village Administrator shall approve the operator's license application. In instances where the Chief of Police recommends denial and/or application standards have not been met, the Village Administrator may refer the application to the Village Board for its action.

### **Sec. 7-2-32    Duration.**

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

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

- (a) **Fee.** The fee for a one (1) year standard operator's license, temporary operator's license, and provisional operator's license shall be as prescribed in Section 1-3-1. The non-refundable fee for a provisional license or temporary operator's license shall be as prescribed in Section 1-3-1, subject to change by the Village Board.
- (b) **Provisional Operator's License.**
  - (1) The Village Administrator may issue provisional operator's licenses in accordance with Sec. 125.17(5), Wis. Stats. The provisional operator's license shall expire sixty (60) days after its issuance or when an operator's license is issued to the holder, whichever is sooner.
  - (2) The Chief of Police shall, upon request, submit to the Village Administrator a report regarding the applicant's conviction history, if any.
  - (3) The applicant for such provisional license must present evidence to the Village Administrator establishing that the applicant is enrolled in an Alcohol Awareness Training Program established pursuant to Sec. 125.17(a), Wis. Stats.
  - (4) The Village Administrator may, upon receiving an application for a temporary provisional license, issue such a license without requiring the successful completion of the approved program as described herein. However, such provisional license shall be used only for the purpose of allowing such applicant the privilege of being licensed as a beverage operator pending his/her successful completion of the approved program, and the applicant shall also apply for a regular operator's license. No such provisional operators license shall be issued prior to a waiting period of less than ninety-six (96) hours [four (4) days], and the completion of a background check subject to limitations established by law.

- (5) A provisional operator's license may not be issued to any person who has been denied an operator's license by the Village, who has had his/her operator's license revoked or suspended within the preceding twelve (12) months, or who previously held an operator's license and who failed to complete the Alcohol Awareness Training Program without first successfully completing the program.
- (6) No person shall be issued more than three (3) provisional licenses in any twelve (12) month period.
- (7) The Village Administrator shall provide an appropriate application form to be completed in full by the applicant.
- (8) The Village Administrator may revoke the provisional license issued if he/she discovers that the holder of the license made a false statement on the application.
- (9) A provisional license shall not be renewed.
- (c) **Temporary Operator's License.** The Village Administrator may issue a temporary operator's license provided that:
  - (1) The temporary operator's license may be issued only to operators employed by, or donating their services temporarily to, nonprofit corporations.
  - (2) No person may hold more than two (2) temporary operator's licenses per year.
  - (3) The temporary operator's license is valid for any period from one (1) day to fourteen (14) days, and the period for which it is valid shall be stated on the license.

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

- (a) **Post-Approval License Issuance.** After the approval of the granting of an operator's license, the Village Administrator shall issue the license. Such licenses shall be issued and numbered in the order they are granted and shall give the applicant's name and address and the date of the expiration of such license.
- (b) **Denial Notice; Reconsideration.**
  - (1) If the application is denied by the Village Administrator or Village Board, the Village Administrator shall, in writing, inform the applicant of the denial, the reasons therefore, and of the opportunity to request a reconsideration of the application by the Village Board in a closed session. Such notice must be sent by regular mail to, or served upon, the applicant at least ten (10) days prior to the Village Board's reconsideration of the matter. At such reconsideration hearing, the applicant may present evidence and testimony as to why the license should be granted.
  - (2) If, upon reconsideration, the Village Board again denies the application, the Village Administrator shall notify the applicant in writing of the reasons therefore. An applicant who is denied any license upon reconsideration of the matter, may apply to Circuit Court pursuant to Sec. 125.12(2)(d), Wis. Stats., for review.
- (c) **Licensing Criteria.**
  - (1) Consideration for the granting or denial of a license will be based on:

- a. Arrest and conviction record of the applicant, subject to the limitations imposed by Sections 111.321, 111.322, and 111.335, Wis. Stats.;
  - b. The financial responsibility of the applicant;
  - c. The appropriateness of the location and the premises where the licensed operator's work is to be conducted; and
  - d. Generally, the applicant's fitness for the trust to be reposed.
- (2) If a licensee is convicted of an offense substantially related to the licensed activity, the Village Administrator or Village Board may act to revoke or suspend the license.
- (d) **Consideration of Past Offenses.** Applications shall be reviewed in the context of the Village's operator's license application and review guidelines. Generally, an application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two (2) offenses which are substantially related to the licensed activity within the five (5) years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the Village, Village officials reserve the right to consider the severity, and facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the Village Administrator or Village Board, at their discretion, may, based upon an arrest or conviction record of two (2) or more offenses which are substantially related to the licensed activity within the five (5) years immediately preceding, act to suspend such license for a period of one (1) year or more.

## **Sec. 7-2-35 Training Course.**

- (a) **Responsible Beverage Server Training Course Requirement.** Except as provided in Subsection (b) below, the Village may not issue an operator's license unless the applicant has successfully completed a responsible beverage server training course at any location that is offered by a vocational, technical and adult education district and that conforms to curriculum guidelines specified by the board of vocational, technical and adult education or a comparable training course that is approved by the educational approval board or unless the applicant fulfills one of the following requirements:
  - (1) The person is renewing an operator's license.
  - (2) Within the past two (2) years, the person held a Class "A", Class "B", "Class A", "Class B", or "Class C" license or permit or a manager's or operator's license.
  - (3) Within the past two (2) years, the person has completed such a training course.
- (b) **Provisional License Issuance Upon Course Enrollment.** The Village Administrator may issue a provisional operator's license to a person who is enrolled in a training course under Subsection (a) above and shall revoke that license if the applicant fails successfully to complete the course in which he or she enrolls.



- (c) **Additional Training Materials.** The Village may not require that applicants for operators' licenses undergo training in addition to that under Subsection (a), but may require applicants to purchase, at cost, materials that deal with relevant local subjects not covered in the course under Subsection (a).

### **Sec. 7-2-36     Display of License.**

Each license issued under the provisions of Sections 7-2-30 through 7-2-37 shall be posted on the premises whenever the operator dispenses beverages or be in his/her possession, or carry a license card.

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

Violation of any of the terms or provisions of the State law or of this Chapter relating to operator's licenses by any person holding such operator's license shall be cause for revocation of the license. The demerit point system of Section 7-2-17 shall be applicable to holders of an operator's license.

### **Sec. 7-2-38 through Sec. 7-2-39     Reserved for Future Use.**



## Article C: Penalties

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### **Sec. 7-2-40 Penalties.**

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



## Title 7 ► Chapter 3

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# Cigarette Licenses

### 7-3-1 Cigarette Licenses

#### Sec. 7-3-1 Cigarette Licenses.

- (a) **License Required.** No person, firm or corporation in the Village of Rio shall, in any manner, directly or indirectly, upon any premises, or by any device, sell, exchange, barter, dispose of or give away, or keep for sale, any cigarette, cigarette paper or cigarette wrappers, or any substitute therefor, without first obtaining a license as hereinafter provided.
- (b) **Application for License; Fee.** Every person, firm or corporation desiring a license under this Section shall file with the Village Administrator a written application therefor, stating the name of the person and the place for which such license is desired. Each license shall be filed by the Village Administrator and shall name the licensee and the place wherein he/she is authorized to conduct such business, and the same shall not be delivered until the applicant shall pay to the Village Administrator a license fee per Section 1-3-1.
- (c) **Issuance and Term of License.** Licenses for the sale, exchange, barter, disposition of, or giving away or keeping for sale of cigarette paper or cigarette wrappers or any substitute therefor shall be issued by the Village Administrator. Each license shall be issued on the first day of July in each year, or thereafter whenever applied for, and shall continue in force from date of issuance until the succeeding June 30th unless sooner revoked for any violation of this Section.

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



## Title 7 ► Chapter 4

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# Direct Sales; Transient Merchants; Mobile Food Establishments

<b>7-4-1</b>	Registration Required
<b>7-4-2</b>	Definitions
<b>7-4-3</b>	Exemptions
<b>7-4-4</b>	Registration
<b>7-4-5</b>	Investigation
<b>7-4-6</b>	Appeals
<b>7-4-7</b>	Regulation of Sales or Solicitation Practices
<b>7-4-8</b>	Suspension or Revocation of Registration
<b>7-4-9</b>	Special Event Vending Permit
<b>7-4-10</b>	Mobile Food Establishments

### **Sec. 7-4-1 Registration Required.**

The purpose of this Chapter is to protect the residents of the Village of Rio in direct consumer transactions, solicitation activities, sales from mobile food establishments. It shall be unlawful for any person, business or organization to engage in such activities within the Village of Rio without being registered for that purpose as provided herein.

### **Sec. 7-4-2 Definitions.**

In this Chapter the following definitions shall be applicable:

- (a) **Charitable Organization.** Shall include any benevolent, philanthropic, religious, patriotic or eleemosynary person, partnership, corporation, association or organization, or one purporting to be such registered under Sec. 440.42, Wis. Stats. Examples are, but not limited to, Boy/Girl Scouts, FFA, American Heart Association, etc.
- (b) **Clerk-Treasurer.** The Village of Rio Administrator or Deputy Clerk-Treasurer.
- (c) **Direct Seller.** Any individual who, for himself or herself, or for a partnership, association, organization or business, sells goods or takes sales orders for the later delivery of goods, at any location other than the permanent business place or residence of said individual,

partnership, association, organization or business, and shall include, but not be limited to, peddlers and transient merchants. The sale of goods includes donations required by the direct seller for the retention of goods by a prospective customer or donor.

- (d) **Goods.** Personal property of any kind, and shall include goods provided incidental to services offered or sold.
- (e) **Merchandise.** Shall include personal property of any kind, and shall include merchandise, goods, or materials provided incidental to services offered or sold. The sale of merchandise includes donations required by the seller for the retention of merchandise by a donor or prospective customer.
- (f) **Permanent Merchant.** Any person who, for at least one (1) year prior to the consideration of the application of this Chapter to said merchant:
  - (1) Has continuously operated an established place of business within the Village of Rio;  
or
  - (2) Has continuously resided in the Village and does business from his/her residence.
- (g) **Person.** All humans of any age or sex, partnerships, corporations, associations or organizations, groups and any other description of a collection of people working in concert or for the same purpose or objective.
- (h) **Solicitor.** Any person who plans, conducts, manages or carries on any campaign or drive in the Village for the purpose of soliciting contributions, travels from residence to residence for or on behalf of any charitable organization or any other person, organization, or who engages in the business of, or holds himself/herself out to persons in the State as independently engaged in the business of soliciting contributions for such purpose.
- (i) **Transient Merchant.** Any direct seller who engages in the retail sale of merchandise at any place in the Village of Rio temporarily, and who does not intend to become and does not become a permanent merchant of such place. The sale of goods includes donations required by the transient merchant for the retention of goods by a donor or prospective customer. For purposes of this Chapter, sale of merchandise includes a sale in which the personal services rendered upon or in connection with the merchandise constitutes the greatest part of value for the price received, but does not include a farm auction sale conducted by or for a resident farmer of personal property used on the farm, or the sale of produce or other perishable products at retail or wholesale by a resident of this state.

### **Sec. 7-4-3 Exemptions.**

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

- (a) **Regular Delivery Routes.** Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes.
- (b) **Wholesalers.** Any person selling merchandise at wholesale to dealers in such merchandise.
- (c) **Agricultural Products.** Any person selling Wisconsin agricultural products which the person has grown.



- (d) **Deliveries by Permanent Merchants.** Any permanent merchant or employee thereof who takes orders at the home of the buyer for merchandise regularly offered for sale by such merchant within this county and who delivers such merchandise in their regular course of business.
- (e) **Requested Home Visits.** Any person who has an established place of business where the merchandise being sold or is offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested, a home visit by, said person.
- (f) **Prior Sales Transactions.** Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer.
- (g) **Services Not Offering Merchandise.** Any person selling or offering for sale a service unconnected with the sale or offering for sale of merchandise.
- (h) **Auctions; Sales Authorized by Statute.** Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law.
- (i) **Charitable Organizations; Limited Exemptions.** Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization, provided that there is submitted to the Village Administrator proof that such charitable organization is registered under Sec. 440.41, Wis. Stats. Any charitable organization engaging in the sale of merchandise and not registered under Sec. 440.41, Wis. Stats., or which is exempt from that statute's registration requirements, shall be required to register under this Chapter.
- (j) **Alleged Transient Merchants.** Any person who claims to be a permanent merchant, but against whom complaint has been made to the Village Administrator or Police Department that such person is a transient merchant, provided that there is submitted to the Village Administrator or Police Department proof that such person has leased for at least one (1) year, or purchased, the premises from which he/she is conducting business, or proof that such person has conducted such business in this Village for at least one (1) year prior to the date complaint was made.
- (k) **Persons Licensed by Examining Boards.** Any individual licensed by an examining board as defined in Sec. 15.01(7), Wis. Stats.
- (l) **Village Authorized Events.** This Chapter does not apply to transient merchants while doing business at special events authorized by the Village Board.
- (m) **Resident Minors; School Extracurricular Activities Fundraising.** Minors under eighteen (18) years of age who are residents of the Public School District of which the Village of Rio is a part, and any other person regardless of age who is a participant in or is raising money for local school extracurricular programs, youth programs, or local sports organizations.
- (n) **School Fundraising.** Any group or individual selling merchandise for the primary purpose of raising funds for a public or private school engaged in the education of children from kindergarten through high school or any extracurricular group affiliated with such a school.

- (o) **Estate Sales.** Any family member holding an estate sale of the personal property of a deceased member of their family.
- (p) **Garage Sales.** Any person holding an occasional sale of personal property items from their residence (i.e., garage sale).
- (q) **Political or Religious Activities.** Any individual engaged in proselytizing, canvassing, campaigning or pamphleteering regarding political or religious views and not engaged in selling any merchandise or soliciting any funds or services.

## **Sec. 7-4-4 Registration.**

It shall be unlawful for any direct seller, transient merchant or solicitor to engage in direct sales or solicitation for contributions of money or other items of value within the Village of Rio without registration as provided herein:

- (a) **Application Information.** Applicants for registration must complete and return to the Village Administrator a registration form furnished by the Village which shall require the following information:
  - (1) Name, permanent address, email address, and telephone number, and temporary address, if any, of the person(s) conducting the sales or solicitation activities; such information shall be kept current with the Village Administrator during the application review period and at all times a registration is in effect;
  - (2) Height, weight, color of hair and eyes, and date of birth;
  - (3) Name, address and telephone number of the person, firm, association, organization or business that the transient merchant, direct seller or solicitor represents or is employed by, acts as agent for, or whose merchandise is being sold;
  - (4) Temporary address and telephone number from which business will be conducted, if any, and documentation that the applicant has permission to be at that temporary address;
  - (5) Copy of current driver's license or other form of current photographic identification;
  - (6) Nature of the business or solicitation to be conducted and a brief description of the merchandise offered and any services offered or the purpose of the organization for which solicitation is performed;
  - (7) Proposed method of delivery of merchandise, if applicable;
  - (8) Make, model and license number of any vehicle(s) to be used by applicant in the conduct of his/her business or solicitation;
  - (9) The last three (3) cities, villages, or towns where applicant conducted similar business or solicitation activities just prior to making this registration.
  - (10) Place where applicant can be contacted for at least seven (7) days after leaving the Village of Rio; and
  - (11) Statement as to whether the applicant has been convicted of any crime or ordinance violation within the last five (5) years; the nature of the offense and the place of conviction.

- (b) **Identification and Certification.** Applicants shall also present to the Village Administrator for examination:
- (1) A state certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighing and measuring devices approved by state authorities; and
  - (2) A state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than ninety (90) days prior to the date the application for license is made.
- (c) **Registration Fee.**
- (1) At the time of filing applications, a registration fee per Section 1-3-1 shall be paid to the Village Administrator to cover the cost of investigation of the facts stated in the applications and for processing said registration. Every member of a group must file a separate registration form. The primary applicant shall pay a registration fee per Section 1-3-1 plus a CIB investigation fee; each assistant under the application shall also be required to pay the CIB records check fee.
  - (2) The applicant shall sign a statement appointing the Village Administrator his/her agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant, in the event the applicant cannot, after reasonable effort, be served personally.
  - (3) Upon payment of said fees and the signing of said statement, the Village Administrator may register the applicant as a transient merchant, direct seller or solicitor and date the entry. Registration fees shall be paid prior to the registration and prior to sales or solicitation activities starting. The registration fee shall be doubled in the event such activity is commenced prior to registration approval.
  - (4) Said registration shall be valid for a period of one (1) year from the date of entry, subject to subsequent refusal as provided in Sec. 7-4-5(b) below.
  - (5) No registration fee shall be charged to a charitable organization, its agents or employees. Solicitors of funds/donations for charitable or other such organizations from outside Columbia County shall comply with all disclosure and registration requirements herein, including payment of the cost of the CIB records check.
  - (6) Such registration shall be for a calendar year and shall expire on December 31 following its issuance, provided however, that the fee shall be one-half (1/2) of the amount stipulated for a calendar year if registration is applied for on or after July 1 of any year.
- (d) **Bond.** Every applicant who is not a resident of Columbia County or who represents a firm whose principal place of business is located outside of the State of Wisconsin shall file with the Village Administrator a surety bond in the amount of Five Hundred Dollars (\$500.00), conditioned that the applicant will comply with all provisions of the ordinances of the

Village of Rio and the State laws regulating peddlers, canvassers, solicitors, direct sellers and transient merchants, and guaranteeing to any person doing business with the person registered that all money paid as a down payment will be accounted for and applied according to the representations made; and further guaranteeing that property purchased for future delivery will be delivered according to such representations. Action on such bond may be brought by any person aggrieved.

### **Sec. 7-4-5 Investigation.**

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

### **Sec. 7-4-6 Appeals.**

Any person denied registration may appeal the denial through the appeal procedure provided by ordinance or resolution of the Village Board or, if none has been adopted, under the provisions of Sections 68.07 through 68.16, Wis. Stats. (Title 4 of this Code of Ordinances).

### **Sec. 7-4-7 Regulation of Sales or Solicitation Practices.**

- (a) **Prohibited Practices.** Transient merchants, direct sellers and solicitors shall:
  - (1) Be prohibited from calling at any dwelling or other place between the hours of 9:00 p.m. and 9:00 a.m. except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning; calling at the rear door of any dwelling place; or remaining on

any premises after being asked to leave by the owner, occupant or other person having authority over such premises.

- (2) Not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any merchandise offered for sale, the purpose of his/her visit, his/her identity or the identity of the organization he/she represents. A charitable organization solicitor shall specifically disclose what portion of the sale price of merchandise being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the merchandise.
- (3) Not impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.
- (4) Not make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a one hundred (100) foot radius of the source.
- (5) Allow rubbish or litter to accumulate in or around the area in which he/she is conducting business.

(b) **Disclosure Requirements.**

- (1) After the initial greeting and before any other statement is made to a prospective customer, a transient merchant, direct seller or solicitor shall expressly disclose his/her name, the name of the company or organization he/she is affiliated with, if any, and the identity of merchandise or services he/she offers to sell.
- (2) If any sale of merchandise is made by a transient merchant, direct seller or solicitor or any sales order for the later delivery of merchandise is taken by the seller, the buyer shall have the right to cancel said transaction if it involves the extension of credit or is a cash transaction of more than Twenty-five Dollars (\$25.00), in accordance with the procedure as set forth in Sec. 423.203, Wis. Stats.; the seller shall give the buyer two (2) copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of Sections 423.203(1)(a)(b) and (c), (2) and (3), Wis. Stats.
- (3) If the transient merchant or direct seller takes a sales order for the later delivery of merchandise, he/she shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance, whether full, partial or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date and whether a guarantee or warranty is provided and, if so, the terms thereof.

(c) **Credit Cards.**

- (1) No transient merchant, direct seller or solicitor may present to or deposit into a credit card system for payment, or cause another person to present or deposit into a credit card sales draft generated by a direct sale or contribution that is not a sale or contribution by that seller or solicitor to the holder of the credit card.

- (2) No transient merchant, direct seller or solicitor may, by means of a business relationship with a merchant, obtain access to a credit card system unless the access is authorized by that merchant's written agreement with the credit card system operator, or with an acquirer registered or authorized by the credit card system operator.
- (d) **Misrepresentations.** No person may employ, solicit or cause a merchant to violate this Section. No transient merchant, direct seller or solicitor may do any of the following, directly or by implication, in contacting a person for purpose of solicitation or sales:
  - (1) Misrepresent the transient merchant's, direct seller's or solicitor's identity, affiliation, location or characteristics.
  - (2) Misrepresent the nature, purpose, or intended length of a direct sale or solicitation.
  - (3) Misrepresent the terms of the transaction or solicitation, or any document related to that transaction or solicitation.
  - (4) Misrepresent the cost of the goods or services offered or promoted by the direct seller or transient merchant, or fail to disclose the material cost payable by the consumer.
  - (5) Misrepresent the nature, quantity, material characteristics, performance or efficiency of the goods or services offered or promoted by the transient merchant or direct seller.
  - (6) Misrepresent or fail to disclose restrictions, limitations or conditions on the purchase, receipt, use or return of the goods or services offered or promoted by the direct seller or transient merchant.
  - (7) Misrepresent the material terms of a direct seller/transient merchant refund, cancellation, exchange, repurchase or warranties policies.
  - (8) Misrepresent that the direct seller/transient merchant is offering consumer goods or services free of charge or at a reduced price.
  - (9) Misrepresent that the direct seller/transient merchant/solicitor is affiliated with any governmental or third-party organization or association.
  - (10) Misrepresent any aspect of a personal investment opportunity offered to the customer, including any aspect such as risk liquidity, earnings potential or profitability.
  - (11) Represent that the transient merchant/direct seller has specially selected the customer unless such representation is true and the transient merchant/direct seller discloses to the consumer the specific basis on which the transient merchant/direct seller makes the representation.
  - (12) Represent that the direct seller or transient merchant is conducting a special sales promotion, is making a special limited offer to a few persons, is making a special offer for a limited period of time, or is authorized to place the offered foods or services in a limited number of residences unless the representation is true and the direct seller/transient merchant concurrently discloses to the consumer the specific basis on which the representation is made.
  - (13) Represent that the direct seller/transient merchant is participating in a contest or conducting a survey unless such representation is accurate.

- (14) Fail to disclose, in connection with any purported offer of free goods or services in a direct sale, any cost which the consumer must incur and any and all conditions which the consumer must meet in order to receive those free goods or services.
- (15) Make any false, deceptive or misleading representation to the customer.

### **Sec. 7-4-8 Suspension or Revocation of Registration.**

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

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

- (a) **Permit Required.** There shall be a per day fee for a Special Event Vending Permit per Section 1-3-1, except there shall be no fee required for a farmer's market. The Village Board will determine whether an applicant party or organization qualifies for a Special Event Vending Permit to conduct specified activity related to a civic event, fair, festival or community promotion event on municipal property and public right-of-ways. The permit shall set forth the dates of the special event, its location parameters, and the location(s) where such business or vending will occur. Such permit shall be valid only during the dates and at the locations specified. In addition, the vendor shall have adequate liability insurance in force as required by this Section.
- (b) **Exclusive Vending Rights During Special Events.**
  - (1) During a special event the Village Board may, and after public hearing, suspend specifically enumerated restrictions on transient merchants, direct sellers and/or mobile food establishments on any street, alley, sidewalk, public property, boat landing and/or public park or recreation area. Alternative rules and procedures may be established by the Village Board for the special event.
  - (2) To encourage the integrity, comprehensiveness and success of a special event taking place on any street, alley, sidewalk, public property, boat landing or public park or

recreation area, the Village Board may, after public hearing, reserve up to fourteen (14) days during any vending year when some or all aspects of licensing and regulation of transient merchants, direct sellers, and/or mobile food establishments will be suspended in the perimeter of the special event. During any special event, the rules, guidelines and procedures as set forth in the resolution approved by the Village Board shall take precedence.

- (3) For each such specific day during which certain or all vending permits have been declared to be suspended, the Village Board may by separate resolution and after public hearing, authorize the sponsor of a special event to select vendors, mobile food establishments, salespersons and vending sites for the duration of the special event within its perimeter. The event's sponsor shall contact the Village Board at least one (1) week before the public hearing with an outline of the rules, regulations, fees, areas affected and a proposed resolution for exclusive vending rights. The determinations of the Village Board as to any specific day during which a transient merchant, direct seller and/or mobile food establishment permit will not be suspended shall be by resolution adopted in advance of such specific day.
- (4) No person holding a transient merchant, direct seller, solicitor, or mobile food establishment permit may sell or offer for sale any goods or foods during a Village-authorized special event unless authorized by the sponsor of the special event as specified above.

## **Sec. 7-4-10 Mobile Food Establishments.**

- (a) **Purpose.** The purpose of this Section is to establish standards for mobile food vending activities with the objective of protecting the public health, safety and welfare, while accommodating a variety of commercial uses within appropriate areas in the Village of Rio which promote an active and social pedestrian, business and tourism environment. This Section also recognizes the importance of conventional restaurant establishments ("brick and mortar" businesses with physical fixed structures) in the Village given their investments, property taxes generated, and the ongoing vitality they bring to the community; such establishments are generally open to serve the needs of the public throughout the calendar year. An overall objective of this Section is to provide a positive business climate in the Village of Rio which provides fair business opportunities for both conventional fixed location restaurants and mobile food vending operations offering the public a variety of food choices.
- (b) **Definitions.** The following definitions and terms shall be applicable when used in this Section, except where the context clearly indicates a different meaning:
  - (1) **Edible Goods.** Includes, but are not limited to:
    - a. On-site prepared food, including, but not limited to, sandwiches, wraps, tacos, burritos and shaved ice.



- b. Prepackaged and mostly prepared food including, but not limited to, sausages, weiners, pizza, ice cream, and desserts.
- (2) **Ice Cream Truck.** A mobile food establishment which sells either frozen dessert, ice cream or frozen yogurt servings that are pre-packaged or enclosed in a wrapper or container having been wrapped, packaged or manufactured elsewhere or ice cream or similar frozen product that is not pre-packaged. An ice cream truck is considered to be a "mobile desserts establishment."
- (3) **Licensee.** A mobile food vendor that holds required permits and licenses necessary for operating a mobile food establishment from the Village of Rio, the County, and the State of Wisconsin and its agencies.
- (4) **Mobile Desserts Establishment.** A mobile food establishment that serves individual portions of ice cream, ice milk, frozen custard, frozen yogurt, dessert mix, sundaes, and other frozen desserts which are either placed in a bowl or edible cone or are pre-packaged having been manufactured, prepared or wrapped in a licensed food preparation establishment. A mobile desserts establishment is a "mobile food establishment" under this Section.
- (5) **Mobile Food Establishment.** A restaurant or retail food establishment where food is served or sold from a movable vehicle, push cart, stand, trailer, boat or similar such unit which periodically changes, or is capable of changing, locations and requires a service base to accommodate the unit for servicing, cleaning, inspections and maintenance. It includes retail food service operations which are built to be mobile by design and constructed on wheels, a push cart or a motorized vehicle, vessel, truck, van, trailer, or boat to sell or serve food directly to the public. This definition includes movable concession stands and similar temporary stations not operating from a properly zoned and licensed fixed location restaurant and which are designed to operate as temporary or traveling food service establishments as those terms are used in ATCP 75, Wis. Adm. Code, "Appendix" ("Wisconsin Food Code") and Ch. 97, Wis. Stats. Not included in this definition/term are vehicles used solely to transport or deliver food, a common carrier regulated by the federal or state government, or an establishment under hire, contract or special request to provide food catering service to a private group, organization or business and is not serving directly to the general public on a retail basis, provided the establishment is in compliance with all state and county health and food code requirements.
- (6) **Mobile Food Vendor.** The licensed owner of a mobile food establishment, or the owner's employee or agent, or any business which sells edible goods from a mobile food establishment within the Village of Rio.
- (7) **Sell.** The act of exchanging a good for profit or in return for a donation.
- (8) **Service Base.** An establishment operated under license or permit of an appropriate regulatory authority where food is manufactured, prepared, stored, portioned or packaged, or any combination of these processes, where such food is intended for

consumption at another place, and where such units are serviced, cleaned, supplied, and/or maintained, and where the equipment, utensils, and facilities are serviced, cleaned and sanitized. The service base may also be the location where food for the mobile unit is prepared. All equipment at the service base must be in full compliance with the requirements of the Wisconsin Food Code [Ch. ATCP 75, Wis. Adm. Code – Appendix].

- (9) **Vehicle.** Any motor vehicle as defined in Sec. 340.01(35), Wis. Stats., or trailer as defined in Sec. 340.01(17), Wis. Stats. "Vehicle" shall also include any bicycle, boat, or other self-propelled device.
- (10) **Vend.** To sell or transfer the ownership of an article to another person for a price in money.

(c) **Licensing Requirements.**

(1) **License Required; Fees.**

- a. Unless operating in conjunction with a Special Event Vending Permit per Section 7-4-9, no mobile food establishment or mobile food vendor shall sell or vend, or offer to sell or vend, food products, goods, wares, merchandise, produce or any other similar items whatsoever in the Village of Rio without first having obtained a license from the Village Administrator and, in addition, licenses and permits from appropriate county and state agencies and authorities.
- b. Each mobile food establishment unit or stand shall be licensed individually and separately.
- c. Permits shall be issued on an annual basis, effective from January 1 through December 31 of the same year.
- d. The license fee to operate a mobile food establishment shall be as established in Section 1-3-1. If an applicant requests a license under this Section for an existing Village-based restaurant or other business which also sells food to additionally vend from a mobile food establishment location, such license fee shall be as prescribed in Section 1-3-1.
- e. Required fees shall be paid at the time of license application.
- f. Mobile food establishments exempt from the fee requirements of this Section are those operated by tax-exempt, non-profit organizations granted exemption under Section 501(c)(3) of the Internal Revenue Code or other educational institutions, churches, religious organizations, educational or benevolent organizations, or youth organizations operating not for profit for local benefit for the area including, but not limited to the Village of Rio, to raise funds for such purposes; or operated by the Village of Rio.

- (2) **License Renewals.** Upon renewal of a mobile food establishment license, each applicant shall reapply and provide the Village Administrator with documentation of information which is new or changed from the original application, along with the renewal fee prescribed in Section 1-3-1. The applicant shall submit the application

and renewal fee within thirty (30) calendar days after the expiration to be considered a renewal request.

- (3) **Transfer of License; Unit Specific License.** A license issued under this Section shall not be transferable from person to person; in such circumstances, a new application is required. A license is valid for one (1) vehicle, cart, trailer or other vending unit and shall not be transferable between vehicles.
- (4) **Alteration of License; Failure to Display License.** No person shall alter or change in any manner a license issued under this Section, and such alteration or the failure to display the license in a conspicuous location on the mobile unit or stand or to show the license upon the demand of any Village enforcement official or actual or prospective customer shall be cause for license suspension or revocation.

(d) **License Application Requirements.**

- (1) **Required Applicant Information.** Applications to operate a mobile food establishment unit shall be filed by the owner of the unit with the Village Administrator and shall include the following information:
  - a. Name, address, telephone number(s) and email address of the person, firm, association, or business that owns the unit.
  - b. Birth date, height, weight, and eye/hair color of the applicant.
  - c. The length of time for which the right to conduct business is requested.
  - d. The location(s) from which the applicant desires to operate the unit.
  - e. The make, model and license number of any mobile food establishment and transport vehicle to be used in the operation.
  - f. A copy of the applicant's valid food and beverage licenses/permits required and issued by the State of Wisconsin and the County, including, but not limited to, a Seller's Permit from the Wisconsin Department of Revenue, and a Mobile Food Establishment License and Service Base License issued by the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP).
  - g. A copy of any written permission to operate on private property, if applicable.
  - h. The address and ownership of the service base.
  - i. A copy of the vendor's proof of liability insurance as required herein.
  - j. A general description of the type of food products which will be offered to the public.
  - k. A general description explaining:
    - 1. Any power needs of the unit, including sources.
    - 2. Wastewater and solid waste storage of the unit and disposal of such wastes.
    - 3. Food preparation, cooking and storage that will occur on the unit.
    - 4. Potable water source.
    - 5. Any transportation or use of liquid or compressed fuels with the unit.
  - l. An explanation of the zoning district(s) in which the mobile food establishment would be located.

- m. If applicable, the three (3) locations where the applicant conducted business preceding the application, including a listing of any licenses or permits required and the governmental entity of issuance.
    - n. A statement as to whether the applicant has been arrested or convicted of any crime or ordinance violation, including the nature of the offense and the place of arrest and/or conviction.
    - o. If any persons other than the applicant will be operating the unit without the presence of the applicant, such persons shall also provide, as applicable, the information required in this Subsection.
  - (2) **Identification.** At the time of filing of an application pursuant to this Section, the applicant shall present to the Village Administrator a driver's license or some other acceptable form of proof of identity with photograph.
  - (3) **Insurance.** At the time of application, the applicant shall provide the Village Administrator with proof of liability insurance for each mobile food establishment. As evidence of liability insurance, the licensee shall provide a certificate of insurance, in a form acceptable to the Village, evidencing having in effect liability insurance and with a photocopy of the endorsement naming the Village of Rio and its officials, employees and agents as additionally named insured (a statement of such coverage on the certificate of insurance alone is not sufficient) in an aggregate amount of not less than One Million Dollars (\$1,000,000.00). If such policy is cancelled, not renewed, or is materially changed, the licensee shall promptly notify the Village in writing.
- (e) **Issuance of License or Denial.**
- (1) **Background Investigation.** Upon receipt of a complete application, the Village Administrator shall forward the application to the Police Department, other appropriate law enforcement agency and/or any other applicable municipal departments to review the application, conduct a background investigation, and make a recommendation regarding issuance of a license.
  - (2) **Application Determination.** Following review of the application for compliance with the requirements of this Section and receipt of the law enforcement authority's recommendation, the Village Administrator shall issue the mobile food establishment license, deny the application, or issue the license with conditions.
  - (3) **Application Denials.** An applicant for a mobile food establishment license may be denied when it is determined that:
    - a. The application contains a material omission or materially inaccurate statement.
    - b. The applicant is under eighteen (18) years of age.
    - c. The applicant has been convicted of any felony, misdemeanor, or ordinance offense which substantially relates to the licensed activity.
    - d. The circumstances of a pending criminal charge against the applicant substantially related to the licensed activity.
    - e. The applicant is found to have unpaid civil judgment(s) which relate to the responsibilities of the licensed activities. The relevance of such judgments shall

be considered by the Village in light of the nature and the amount of the judgment and the relationship of the judgment to the purpose of the license.

- f. The applicant has failed to comply with any regulatory requirement of this Section and that, in the Village's sole discretion, there is a public safety, health or general welfare reason that supports the denial of the license application.
  - g. Complaints of a material nature have been received against the applicant in other communities in which the applicant conducted similar business.
- (4) **Appeals.** If the Village Administrator denies an application for a mobile food establishment license, the applicant may file a written appeals request with the Village Administrator within fifteen (15) days after the Village has mailed a notice of denial to the applicant. If the applicant files a timely appeals request, the Village Administrator shall schedule an appeals hearing before the Village Board or designated committee thereof. Following such hearing, the Village Board, or designated committee thereof, may only approve the application on appeal if the applicant is qualified under this Section, and conditions may be placed on such approval.
- (5) **License Suspension or Revocation.** The Village Board or designated committee thereof, after notice and hearing, may revoke or suspend any license issued under this Section, for no less than ten (10) and no more than ninety (90) days, for violation of any provision of this Section, any state law or local ordinance which would make continued vending contrary to the public health, safety or welfare, or for fraud or misrepresentation in sales or solicitation under this Section. Written notice of the hearing shall be provided to the licensee a minimum of seventy-two (72) hours prior to the hearing date. The notice shall state the time and location of the statement and include a statement of the facts which the proposed revocation or suspension is based.
- (f) **Conduct of Business Requirements.** Mobile food establishments operating within the Village of Rio, and as a condition of license, shall comply with all of the following regulations:
- (1) **Compliance With Regulations.** A licensee shall comply with all applicable state, county and local food, safety and health regulations and permits applicable to the unit and the related sale, storage and preparation of food and beverages, including, but not limited to, the Wisconsin Food Code.
  - (2) **Display of Licenses and Permits.** All state, county and local permits and licenses shall be conspicuously displayed on the mobile food establishment unit while in operation.
  - (3) **Inspections.** Licensees of a mobile food establishment and their employees shall permit inspections by state, county and local health and sanitation authorities. Public health and sanitation authorities may conduct follow-up inspections upon finding violations of sanitation and health requirements to verify compliance.
  - (4) **Service Base Requirements.**
    - a. Every mobile food establishment shall have a designated service base meeting the requirements of the Wisconsin Food Code [Ch. ATCP 75, Wis. Adm. Code – Appendix] to store and prepare food and supplies.

- b. A mobile food establishment shall return to its service base a minimum of once every twenty-four (24) hours for service, unit storage, equipment cleaning, discharging of solid or liquid wastes, refilling water tanks and ice bins, and storing of single-serve food items.
- (5) **Misrepresentation.** A licensee shall not fraudulently misrepresent the character, quality or quantity of any food article offered for sale or offer for sale any tainted or spoiled food, nor intentionally misrepresent to any prospective customer the purpose of his/her solicitation, the name of the business and its owner, the supply source of the food or goods for sale, or the disposition of the sale proceeds.
- (6) **Permitted Public Property Vending Locations; Authorized Zoning Districts.**
  - a. The Village Board by resolution and accompanying map, adopted herein by reference, shall designate specific Mobile Food Establishment Vending Locations within the Village where vending from mobile food establishments is permitted, subject to compliance with the requirements of this Section. Vending is prohibited in other non-designated locations.
  - b. Mobile food establishments shall only operate in designated public right-of-way locations or municipal parking lots. Such locations are not reserved and may be used on a "first come/first used" basis. Mobile food establishments shall at all times comply with applicable traffic and parking regulations in such locations.
  - c. Mobile food establishments shall not operate in public parks, boat landings and recreational areas unless permitted under a Special Event Vending Permit [Section 7-4-9] or as authorized as part of a community, civic or promotional event specifically authorized by the Village Board (i.e., festival, special community event, food cart night, parade, etc.).
  - d. Unless otherwise excepted herein, no designated vending location shall be in an area zoned residential.
  - e. Venders shall only offer to the public food items from a mobile food establishment unit.
- (7) **Limits on Public Property Vending Locations; Required Setbacks; Vending Hours.**
  - a. No mobile food establishment shall be located or conduct sales within two hundred (200) feet of a conventional restaurant unless the owner of such restaurant gives written permission to locate and operate at a closer distance. A copy of such written permission shall be provided to the Village.
  - b. A mobile food establishment unit owned and operated by a restaurant or other business may be permitted to be placed and operated on that business property located in the Village, provided all other applicable licensing, fees and regulatory provisions of this Section are complied with.
  - c. No mobile food establishment shall be operated within three hundred (300) feet of a school property.
  - d. No mobile food establishment shall be operated within two hundred (200) feet of a Village park, boat landing or recreation area during hours any authorized concessions are being sold from any building or pavillion therein.

- e. No mobile food establishment shall be operated within five hundred (500) feet of any carnival, fair, festival, special event or civic event sanctioned by the Village or under a Special Event Vending Permit unless written permission is given by the sponsoring organization of such event. A copy of such written permission shall be provided to the Village.
  - f. No more than two (2) mobile food establishment units shall be located per block.
  - g. No mobile food establishment on public property shall operate more than six (6) hours per day at a stationary location.
  - h. Permitted vending hours from public property are 8:00 a.m. to 9:00 p.m.
- (8) ***Vending From Private Property Locations.***
- a. Provided written permission is given by a private property owner, mobile food establishments may operate from that owner's private property. A copy of such permission shall be provided to the Village.
  - b. Mobile food establishment vending from private property locations may only be conducted on non-residential properties zoned commercial or industrial.
  - c. No more than two (2) mobile food establishments may operate from a private property parcel at one time.
  - d. All applicable licensing, fees and regulatory provisions of this Section shall be complied with when there is vending from private property locations.
- (9) ***Mobile Desserts Vending Locations.*** Mobile desserts establishments (i.e., ice cream vending trucks) may vend curbside from public right-of-way locations in any zoning district, excluding Village parks, boat landings and recreation areas. Mobile desserts establishments shall comply with all other licensing, fees and regulatory provisions of this Section.
- (10) ***Safety and Refuse Disposal Requirements.***
- a. Mobile food establishment units shall not obstruct any public street, terrace, trail access or visibility of street corners, driveways, cross walks, or intersections. No licensee shall locate a mobile food establishment within twenty (20) feet of the intersection of a sidewalk with any other sidewalk. Licensees shall take affirmative steps to direct customers waiting for service to refrain from causing any such obstructions.
  - b. No mobile food establishment shall be located within fifteen (15) feet of the extension of any building entrance or doorway to the curb line.
  - c. Mobile food establishments operating in an authorized public right-of-way shall serve and dispense food products from the curbside of the unit only at all times.
  - d. Mobile food establishments shall not create any dining area within a public right-of-way, including, but not limited to, stools, chairs, tables, benches or stand-up counters.
  - e. No food service shall be prepared, sold or displayed outside of the mobile food establishment.

- f. Mobile food establishments authorized to conduct business on a terrace or sidewalk area shall maintain within twenty-five (25) feet of its sales location a clean, sanitary, and hazard-free area, and shall not discharge or dispose of any material onto the street, terrace, sidewalk, ditch, gutters or storm drain. Such area shall be kept clean and free from refuse and litter at all times.
  - g. Operators of mobile food establishments shall provide a minimum of one (1) leak-proof container for deposit of waste.
  - h. Mobile food establishment licensees shall remove or otherwise properly dispose of all garbage, waste and litter generated by their operations and customers on a daily basis, including that waste and litter which may be reasonably viewed from the operation area of the unit on the ground or otherwise not properly disposed of.
- (11) **Utilities.** Mobile food establishments shall not connect to any public source of water, sewer disposal or electricity facilities unless specifically authorized by the Village prior to such use.
- (12) **Signage; Improper Use of Public Property.**
  - a. Mobile food establishments shall not use any public property, such as, but not limited to, traffic signs, utility poles, municipal flower beds, or other amenities to attach, affix or place any signs, posters, electrical cords, ropes or other things used in its operations.
  - b. Signage may only be permitted when placed on the mobile food establishment unit. No separate free-standing signs are permitted.
  - c. All mobile food establishment units shall display signage which indicates the name of the operator and a valid telephone number. Such signage lettering shall be a minimum of three (3) inches in height and be in plain view to all patrons.
- (13) **Permitted Operators.** An on-street mobile food establishment shall only be operated by the person who has obtained a license under this Section or by an employee of the person who obtained a license under this Section.
- (14) **Vehicle Standards.**
  - a. All mobile food establishments shall be in compliance with all applicable federal, state, county or municipal regulations regarding vehicle size. Any vehicle, trailer or other on-street units used for vending food shall be designed and manufactured specifically for the purpose of food vending.
  - b. All mobile food establishments shall be self-contained in regard to water, gas, electricity and equipment necessary for unit operation.
  - c. Mobile food establishment vehicles and trailers shall have valid registration and license plates as required by Chapter 341, Wis. Stats.
  - d. No flashing, blinking, chaser, or strobe lights are permitted on any mobile food establishment unit.
  - e. Amplified sound or music from a mobile food establishment unit is prohibited.



- (15) **Farmers Markets; Auctions.** Vendors selling produce and similar food products (i.e., honey, cheese, jams, cider, etc.) at a Village-sponsored farmers market are exempt from the provisions of this Section, as are food trucks serving attendees at a bona fide auction or estate sale.
- (g) **Penalties.** A licensee who violates any provision of this Section, or any condition of license, regulation or order made hereunder, shall be subject to the penalties found in Section 1-1-6, and be subject to possible license suspension or revocation.

**State Law Reference:** Ch. 97, Wis. Stats.; Ch. ATCP 75, Wis. Adm. Code



## Title 7 ► Chapter 5

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# Regulation and Licensing of Fireworks

### 7-5-1 Regulation of Fireworks

#### Sec. 7-5-1 Regulation of Fireworks.

- (a) **Regulation of Fireworks.** Except as otherwise allowed by this Chapter, no person may possess, sell or use fireworks in the Village of Rio. This Chapter shall constitute a local regulation adopted pursuant to Sec. 167.10(5), Wis. Stats.
- (b) **Definitions.** In this Section, "fireworks" means anything manufactured, processed or packaged for exploding, flying, jumping, emitting sparks or combustion. Common regulated fireworks include, but are not limited to:
  - (1) Firecrackers; M-60 or M-80 explosive devices; sky rockets or mortars; display wheels; torpedoes; bottle rockets; Roman candles; aerial salutes; or any fireworks of like construction or function; or
  - (2) Any devices commonly sold as fireworks containing nitrates, chlorates, oxalates, sulfides of lead, barium, antimony, mercury, arsenic, nitroglycerine phosphorus, or any of the same.
- (c) **Exclusions.** The general prohibition against fireworks in this Chapter shall not include any of the following (referred to as "Allowable Devices"). These are the only types of devices which may be possessed or used without a fireworks display permit or that may be sold to a person who does not have a permit by a party holding a non-temporary sales permit or a temporary stand permit:
  - (1) Fuel or a lubricant.
  - (2) A firearm cartridge, shotgun shell, ammunition, and/or blasting agents utilized or handled as provided by law or ordinance.
  - (3) The use, possession or sale of blank cartridges for theatrical purposes, for signal purposes at authorized athletic/sporting events, or use by law enforcement or military authorities.
  - (4) A flare used, possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.
  - (5) A match, cigarette lighter, stove, furnace, candle, lantern or space heater.
  - (6) Tobacco or a tobacco product.

- (7) A cap containing not more than one-quarter (1/4) grain of explosive mixture, if the cap is used, possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.
- (8) A toy snake which contains no mercury.
- (9) A model rocket engine.
- (10) A sparkler on a wire or wood stick not exceeding thirty-six (36) inches in length or 0.25 inches in outside diameter that is designed to produce visible effects and which does not contain chlorate, perchlorate or magnesium.
- (11) A device designed to spray out paper confetti or streamers and which contains less than one-quarter (1/4) grain of explosive mixture.
- (12) A device designed to produce an audible sound but which does not explode, spark, move, fly or emit an external flame after ignition and which does not exceed three (3) grams in total weight.
- (13) A fuseless device that is designed to produce an audible and visible effect(s), and that contains less than one-quarter (1/4) grain of explosive mixture.
- (14) A stationary device that is designed primarily to burn pyrotechnic smoke-producing mixtures, at a controlled rate, and that produces an audible or visible effects.
- (15) A stationary cylindrical fountain that consists of one or more tubes and that is classified by the federal Department of Transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.
- (16) A stationary cone fountain that is classified by the federal Department of Transportation as a Division 1.4 explosive as defined in 49 CFR 173.50.

## Title 7 ► Chapter 6

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# Special Event Street Use and Block Party Permits

### 7-6-1 Special Event Street Use and Block Party Permits

#### Sec. 7-6-1 Special Event Street Use Permits.

- (a) **Purpose of Special Event Street Use Permits.** The streets of the Village of Rio are primarily for the use of the public for vehicular and pedestrian travel. However, under proper circumstances, the Village Administrator may grant a permit for a special event street use, subject to reasonable municipal regulation and control. Therefore, this Chapter is enacted to regulate and control the use of streets pursuant to a Special Event Street Use Permit to the end that the health, safety and general welfare of the public and the good order of the Village of Rio can be protected and maintained. Said authority to regulate is contained in Sec. 349.185, Wis. Stats.
- (b) **Special Event Street Use Permit Required.** It is unlawful for a special event to take place on a public street without a Special Event Street Use Permit. The Village Administrator shall determine whether a proposed special event is more appropriately licensed under this Chapter or the provisions of Section 7-7-1 governing Large Public Gatherings/Assemblies Permits or Section 7-13-1 governing parades, processions or races.
- (c) **Definitions.** As used in this Chapter:
  - (1) **Processions or Parades.** Shall have their usual and customary meaning, and are special events under this Chapter.
  - (2) **Highways or Streets.** Has the meaning set forth in Sec. 340.01, Wis. Stats., and also includes areas owned by the Village of Rio which are used primarily for pedestrian or vehicular traffic.
  - (3) **Special Events.**
    - a. Community events such as special events on Village streets and other events that meet the definition in this Chapter (these shall comply with Section 7-13-1). Such events are allowed subject to the reasonable requirements of this Chapter and of the policies and procedures of the Village pertaining to parks and recreation. The Village Board finds such requirements necessary to promote the equitable use of limited public lands, to allow for the efficient use of limited

resources through proper planning for such events, and to protect the public health, safety and welfare, including traffic and pedestrian safety.

- b. Specifically, a special event shall mean a scheduled public gathering of persons, on Village streets or property, to which the public is invited and which will reasonably require, based on Village of Rio policies and procedures, the provision of Village support services to accommodate the event on public property. A special event is open to the public at a predetermined location on public property, including, but not limited to, Village parks, streets, and sidewalks. (Note: exceptionally large assemblies shall also be subject to the requirements of Title 7, Chapter 7 of this Code of Ordinances.)

(d) **Exceptions.**

- (1) This Chapter shall not apply to any of the following:
  - a. Any march, public assembly, or other activity protected by the First Amendment to the United States Constitution.
  - b. Village-sponsored events.
  - c. Funeral processions or military convoys.
  - d. Events exempted by contract with the Village of Rio.
- (2) Any special event sponsored by any agency of the federal or state government, acting in its governmental capacity within the scope of its authority, shall be required to obtain a permit, however, it shall be exempt from the permit fee and insurance requirements contained herein.

- (e) **Application for Special Event Street Use Permit.** A written application for a Special Event Street Use Permit by persons or groups desiring the same shall be filed with the Village Administrator. A non-refundable application fee as prescribed by Section 1-3-1 shall be paid at the time of application. The Village Administrator and Chief of Police may approve an agreement with a permit holder that provides for actual cost recovery by the Village in lieu of the fees stated in Section 1-3-1. The application for a Special Event Street Use Permit shall set forth the following information regarding the proposed street use:

- (1) The name, address and telephone number of the applicant or applicants.
- (2) If the proposed street use for a special event is to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorizing responsible heads of such organization.
- (3) The name, address and telephone number of the person or persons who will be responsible for conducting the proposed use of the street.
- (4) The date and duration of time for which the requested use of the street for a special event is proposed to occur.
- (5) An accurate description of that portion of the street proposed to be used for a special event, including a map.
- (6) The approximate number of participants or units comprising the usage.

- (7) The proposed use, described in detail, for which the Special Event Street Use Permit is requested.
  - (8) The assembly area, starting point, route to to be traveled and the termination point, as applicable.
  - (9) Copy of a current tax exempt identification number, if requested by Village officials.
  - (10) Any additional information which Village officials find necessary for a fair determination as to whether a permit should be issued.
- (f) **When Special Event Permit Application Must Be Made.** A written application for a special event on the streets, highways or other public grounds under the jurisdiction of the Village shall be made by one of the organizers or officers to the Village Administrator no less than thirty (30) days prior to the proposed date of the special event.
- (g) **Recommendations of Governmental Agencies.** The Village Administrator shall submit a copy of the application to the Chief of Police and the Public Works Department for their recommendations.
- (h) **Representative at Meeting.** The person or representative of the group making application for a Special Event Street Use Permit may be requested to meet with the Village Administrator and Chief of Police regarding the granting of said permit to provide any additional information which is reasonably necessary to make a fair determination as to whether a permit should be granted.
- (i) **Discretionary Denial of Special Event Street Use Permit.** An application for a Special Event Street Use Permit may be denied if:
- (1) The proposed street or public property use is primarily for private or commercial gain.
  - (2) The proposed street or public property use would violate any federal or state law or any ordinance of the Village of Rio.
  - (3) The proposed street or public property use will substantially hinder the movement of police, fire or emergency vehicles, constituting a risk to persons or property.
  - (4) The application for a Special Event Street Use Permit does not contain the information required above.
  - (5) The application requests a period for the use of the street or public property for a special event in excess of one-half day.
  - (6) If sufficient supervision would not be provided as to reasonably assure the orderly conduct of the usage.
  - (7) The policing of the usage will require so large a number of persons and vehicles, including ambulances, as to prevent adequate service of the needs of the rest of the municipality.
  - (8) The usage will seriously hinder the reasonable movement of police, fire and other emergency vehicles as to create a substantial risk to persons and property.
  - (9) The conduct of the usage will substantially interrupt the safe and orderly movement of other traffic contiguous to its route.
  - (10) The usage is so poorly organized that participants are likely to engage in unsafe or destructive activity.

- (11) The proposed use could equally be held in a public park, school grounds or other location. In addition to the requirements that the application for a Special Event Street Use Permit shall be denied, as hereinabove set forth, the Village Administrator and Chief of Police may deny a permit for any other reason or reasons if they conclude that the health, safety and general welfare of the public cannot adequately be protected and maintained if the permit is granted.
- (j) **Alcohol Sales.** It is the responsibility of the Special Event Street Use Permit holder to obtain a Temporary Class "B" Fermented Malt Beverage license per Title 7, Chapter 2 of this Code of Ordinances, if alcohol is to be sold at the special event. The license holder shall, in addition to all other requirements of the law, the Village fermented malt beverage and/or liquor license, and this Section, take reasonable steps to ensure that alcohol beverages are consumed only by persons who are of legal drinking age, and not by persons who are not of age or who are intoxicated. Reasonable steps shall include, but not be limited to, the use of barriers and fences to enclose the area where alcohol is to be consumed, and supervision of the area by security and staff personnel. Failure to take reasonable steps and use them at all times when alcohol is sold is grounds for termination of the event, issuance of a Village ordinance citation, or denial of the fermented malt beverage or liquor license or Parade/Possession Street Use Permit in the future.
- (k) **Parks-Public Grounds.** A Special Event Street Use Permit shall not exempt the permit holder or guests from the requirements of Title 12 of this Code of Ordinances regulating parks and public grounds.
- (l) **Public Streets and Sidewalks.** All use of public streets and sidewalks for special events shall be on routes approved by the Village Administrator and Chief of Police. The Village Administrator and Chief of Police may designate what streets and sidewalks or what portions thereof may be used for a special event. It shall be the duty of the permit holder to obey any such designation. Failure to obey shall be a violation of this Subsection by the permit holder and may result in the termination of the event or issuance of a Village ordinance citation. A future Special Event Street Use Permit may be denied based on a past violation of this Section.
- (m) **Insurance.** The applicant for a Special Event Street Use Permit may be required to indemnify, defend and hold the Village and its officials/employees and agents harmless against all claims, liability, loss, damage or expense incurred by the Village on account of any injury to or death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the permit, the applicant may be required to furnish a Certificate of Comprehensive General Liability Insurance with the Village of Rio. The Special Event Street Use Permit holder shall provide proof of liability and property damage insurance in the amount of at least One Million Dollars (\$1,000,000.00) per occurrence, with the Village of Rio listed as an additional named insured. The applicant may also be required to furnish a performance bond or make a cash deposit with the Village of Rio (all or some of which may be refunded post-event) prior to being granted the permit.



- (n) **Special Community Event Exception.** The requirements of Subsections (i) and (o) are not applicable to certain community events recognized by the Village Administrator and Chief of Police as falling within this exception. Open consumption and/or sales of alcoholic beverages may be allowed for these limited community events per Village ordinances.
- (o) **Block Party Regulations.** The Village of Rio does not issue permits for the use of public streets for block parties, flea markets, street-wide garage sales, or similar events.
- (p) **Charge for Increased Costs.**
  - (1) Where the Village Administrator determines that the cost of municipal services incident to the staging of the usage will be significantly increased because of the usage, the Village Administrator may require the permittee to make an additional payment to the Village of Rio, in an amount equal to the increased costs.
  - (2) An applicant for a permit may be required to pay to the Village, before the permit is issued, a traffic-control fee in an amount established by the Public Works Department or designee. The traffic-control fee shall be based on consideration of the following information which shall serve as a standard to guide the Department's discretion in setting the fee:
    - a. The route for the event;
    - b. The time of day the special event is to take place;
    - c. The date and day of the week proposed;
    - d. The general traffic conditions in the area requested, both vehicular and pedestrian, with special attention being given to the rerouting of vehicles or pedestrians normally using the requested area;
    - e. The number of marked and unmarked intersections along the special event route requested, together with the traffic-control devices present;
    - f. The number of marked and unmarked intersections and traffic-control devices if traffic must be completely rerouted from the area;
    - g. The estimated number of participants and vehicles;
    - h. The nature, composition, format, and configuration of the event;
    - i. The anticipated weather conditions;
    - j. The estimated time or duration of the event;
    - k. The plan of the applicant for emergency medical services;
    - l. Sufficient parking near the route to accommodate the number of vehicles reasonably expected, including provisions arranged for and made by the applicant for handicapped parking; and
    - m. Applicable fees as stated in Section 1-3-1.
  - (3) The traffic-control fee shall cover the cost to the Village of providing sufficient officers to regulate traffic and maintain public order incident to the proposed event, march or public assembly. The fee shall not be increased by consideration of the nature, substance, or content of the subject matter or speech for which the event, march or public assembly is organized.

**7-6-1**

- (q) **Cleanup Requirements.** The holder of any Special Event Street Use Permit issued under this Section shall return the street to the condition that existed prior to the use.. The Village will make such restoration in the event that the permit holder fails to do so and bill the permittee for the cost incurred by the Village in performing this work. Failure to make timely payment within a reasonable time after receiving the statement for cleaning work shall constitute grounds for refusal to grant the permit holder any other permit in the future.
- (r) **Termination of a Special Event Street Use Permit.** A Special Event Street Use Permit for an event in progress may be terminated by the Village President, Village Administrator or a law enforcement officer if the health, safety and welfare of the public appears to be endangered by activities generated as a result of the event or the event is in violation of any of the conditions of the permits or ordinances of the Village of Rio. The Village President, Village Administrator or a law enforcement officer has the authority to revoke a permit or terminate an event in progress if the event organizers fail to comply with any of the regulations in the street use policy or conditions stated in the permit.

***Cross-Reference:*** Section 7-13-1 Processions and Parades

## Title 7 ► Chapter 7

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# Regulation of Large Assemblies of Persons

### 7-7-1 Permits for Large Public Gatherings

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

(a) **Intent.**

- (1) It is the purpose of the Village of Board to regulate the assemblage of large numbers of people, in excess of those normally needing the health, sanitary, fire, police, transportation and utility services regularly provided in the Village of Rio, in order that the health, safety and welfare of all persons in the Village, residents and visitors alike, may be protected. The Village Board may waive the requirements of this Chapter for certain community-wide events.
- (2) The purpose and intent of this Section is to establish site approval for locations in the Village of Rio used temporarily for large gatherings, as defined in Subsection (b) below, it being recognized that the character and type of such gatherings vary widely and the facilities required to carry out the general purpose and intent of this Section should be the subject of a Public Gathering Permit issued only after public hearing and a determination by the Village Board that there will be compliance with the standards set forth in this Section.

- (b) **Scope.** This Section shall apply to all public and private gatherings, rallies, assemblies or festivals at which attendance is greater than one thousand (1,000) persons for a one (1) day or a two (2) day or more event. The requirement for a Public Gathering Permit shall not apply to events held in any regularly established permanent place of worship, stadium, school, athletic field, arena or other similar permanently established structure designed for assemblies, for local civic, community or charitable events, or to church picnic events which do not exceed by more than three hundred (300) people the maximum seating capacity of the structure where the assembly is held. The Village Board, in its discretion, shall determine whether a proposed event is most appropriately licensed under this Chapter or the provisions of Section 7-6-1 governing Special Event Street Use and Block Party Permits.

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

- (1) **Person.** Any individual, partnership, corporation, firm, organization, company, association, society or group.

- (2) **Assembly.** A company of persons gathered together at any location at any single time for any purpose, and may be considered a large public gathering if it falls within the definition in Subsection (b) above. The Village Board, in its discretion, shall determine whether a proposed event is most appropriately licensed under this Chapter or the provisions of Section 7-6-1 governing Special Event Street Use and Block Party Permits.
  - (3) **Public Gathering.** Shall be as defined in Subsection (b) above.
- (d) **Permit Required.** No person shall permit, maintain, promote, conduct, advertise, act as entrepreneur, undertake, organize, manage or sell or give away tickets to an actual or reasonably anticipated large gathering, whether on public or private property, unless a Public Gathering Permit to hold the assembly has first been issued by the Village Board. A permit to hold an assembly issued to one person shall permit any person to engage in any lawful activity in connection with the holding of the licensed assembly.
- (e) **Application for Permit.**
  - (1) **Applicant.** Applications for a Public Gathering Permit shall be made by the owner or a person having a contractual interest in lands proposed as the site for a public or private gathering, rally, assembly or festival as defined in this Section. The application shall contain a statement made upon oath or affirmation that the statements contained therein are true and correct to the best knowledge of the applicant and shall be signed and sworn to or affirmed by the individual making application in the case of an individual, by all officers in the case of a corporation, by all partners in the case of a partnership or by all officers of an unincorporated association, organization, society or group or, if there be no officers, by all members of such association, organization, society or group.
  - (2) **Filing Period.** An application for a Public Gathering Permit shall be filed with the Village Administrator not less than forty-five (45) days nor more than one hundred twenty (120) days before the date on which it is proposed to conduct the event.
- (f) **Required Application Information.** The application for a Public Gathering Permit shall contain and disclose all of the following information:
  - (1) The name, residence and mailing address of all persons required to sign the application by Subsection (e)(1) above and, in the case of a corporation, a certified copy of the articles of incorporation together with the name, age, residence and mailing address of each person holding ten percent (10%) or more of the stock of such corporations.
  - (2) The name and mailing address of the promoter and/or sponsor of the gathering.
  - (3) The address and legal description of all property upon which the assembly is to be held, together with the name, residence and mailing address of the owner of record of all such property. This description shall be by plat of survey to a scale of one (1) inch equals one hundred (100) feet prepared by a registered land surveyor showing the location, boundaries, dimensions, type, elevations and size of the following:

subject site, existing or proposed wells, buildings, fences, woods, streams, lakes or water courses, as well as the vertical contour interval two (2) feet above the ordinary highwater level.

- (4) Proof of ownership of all property upon which the assembly is to be held or a statement made upon oath or affirmation by the record owner of all such property that the applicant has permission to use such property for an assembly of two hundred fifty (250) or more persons.
- (5) The nature or purpose of the assembly.
- (6) The total number of days and/or hours during which the assembly is to last.
- (7) The maximum number of persons which the applicant shall permit to assemble at any time, not to exceed the maximum number which can reasonably assemble at the location of the assembly, in consideration of the nature of the assembly, or the maximum number of persons allowed to sleep within the boundaries of the location of the assembly by the Zoning Code of the Village of Rio if the assembly is to continue overnight.
- (8) The maximum number of tickets to be sold, if any.
- (9) The plans of the applicant to limit the maximum number of people permitted to assemble.
- (10) The plans for fencing the location of the assembly and the gates contained in such fence.
- (11) The plans for supplying potable water including the source, amount available and location of outlets.
- (12) The plans for providing toilet and lavatory facilities including the source, number and location, type and the means of disposing of waste deposited.
- (13) The plans for holding, collection and disposing of solid waste material.
- (14) The plans to provide for medical facilities including the location and construction of a medical structure, the names and addresses and hours of availability of physicians and nurses, and provisions for emergency ambulance service.
- (15) The plans, if any, to illuminate the location of the assembly including the source and amount of power and the location of lamps.
- (16) The plans for parking vehicles including size and location of lots, points of highway access and interior roads including routes between highway access and parking lots.
- (17) The plans for camping facilities, if any, including facilities available and their location.
- (18) The plans for security including the number of guards, their deployment, command arrangements, and their names, addresses, credentials and hours of availability.
- (19) The plans for fire protection including the number, type and location of all protective devices including alarms and extinguishers, and the number of emergency fire personnel available to operate the equipment.
- (20) The plans for sound control and sound amplification, if any, including number, location and power of amplifiers and speakers.

- (21) The plans for food concessions and concessionaires who will be allowed to operate on the grounds including the names and addresses of all concessionaires and their license or permit numbers.
- (22) The application shall include the bond required in Subsection (g) and the permit fee.
- (g) **Bond.** The Village Board shall have authority to require the applicant and site owners to file a cash bond or establish an escrow account in an amount to be determined by the Village Board, but not exceeding One Hundred Thousand Dollars (\$100,000.00), conditioned on complete compliance by the applicant and site owner with all provisions of this Section, the terms and conditions of the Public Gathering Permit, including cleaning up the site, and the payment of any damages, administrative and law enforcement costs, fines, forfeitures or penalties imposed by reason of violation thereof. Such bond or escrow account information shall be filed with the Village Administrator prior to the issuance of a permit.
- (h) **Charge for Increased Costs.** Where the Village Board determines that the cost of municipal services incident to the staging of the usage will be significantly increased because of the usage, the Village Board may require the permittee to make an additional payment into the general fund of the Village in an amount equal to the increased costs.
- (i) **Hearing; Determination.** Prior to considering an application for a Public Gathering Permit, the Village Board shall conduct a public hearing on the matter. Written notice of such hearing shall be mailed to the applicant and all property owners adjacent to the site of the proposed assembly. The Village Board shall, based on evidence presented at the hearing, make a finding of the number of persons expected to attend the event. Such finding shall be final and conclusive on the applicant for the purpose of determining the amount of the permit fee and the applicability of those standards set forth herein which are dependent upon the number of persons attending the event.
- (j) **Standards.** A Public Gathering Permit shall not be issued unless it is determined, based on evidence produced at the hearing or submitted with application materials, that the following standards are or will be met; the applicant may be required to file with the Village Administrator copies of properly executed contracts establishing the ability to fully provide the services required under this Section:
  - (1) For events scheduled for two (2) successive days or more, at least one (1) acre of land, exclusive of roads, parking lots and required yards shall be provided for each one hundred (100) persons attending.
  - (2) Every site proposed for a Public Gathering Permit shall be on generally well-drained ground and shall not be on ground on which storm or other waters accumulate or on ground which is wet or muddy due to subsoil moisture.
  - (3) Due to the physical characteristics of the site, the Village Board may require that the applicant shall provide proof that he/she will furnish, at his/her own expense, a minimum of two (2) days before the assembly commences, a snow-fence type fence completely enclosing the proposed location of sufficient height and strength to prevent people in excess of the maximum permissible number from gaining access to the

assembly grounds, which shall have at least four (4) gates, at least one (1) at or near four (4) opposite points of the compass.

- (4) The applicant shall provide proof that he/she has contracted for local EMS services to provide emergency ambulance and EMT services, at the applicant's expense, for events at which over one thousand (1,000) persons will be in attendance.
- (5) The applicant shall provide proof that he/she will furnish, at his/her own expense before the assembly commences if the assembly is to continue during hours of darkness, illumination sufficient to light the entire area of the assembly at the rate of at least five (5) foot candles, but not to shine unreasonably beyond the boundaries of the enclosed location of the assembly.
- (6) The applicant shall provide proof that he/she will furnish, at his/her own expense before the assembly commences, a free parking area inside of the assembly grounds sufficient to provide parking space for the maximum number of people to be assembled at the rate of at least one (1) parking space for every four (4) persons.
- (7) The applicant shall provide proof that he/she will furnish, at his/her own expense before the assembly commences, security guards, either regularly employed, duly sworn, off-duty Wisconsin peace officers or private guards, licensed in Wisconsin, sufficient to provide adequate security for the maximum number of people to be assembled at the rate of at least one (1) security guard for every five hundred (500) people. If it is determined by the Village Administrator, that additional police protection shall be required, he/she may contact the County Sheriff's Department; and all costs for the additional protection required shall be deducted from the posted cash bond.
- (8) The applicant shall provide proof that he/she will furnish, at his/her own expense before the assembly commences, fire protection, including alarms, extinguishing devices and fire lanes and escapes, sufficient to meet all state and local standards for the location of the assembly as set forth in the Wisconsin Administrative Code and ordinances of the county and Village of Rio, and sufficient emergency personnel to efficiently operate the required equipment.
- (9) The applicant shall provide an adequate source of pure water with sufficient supply outlets for drinking and other purposes to comfortably accommodate the number of persons expected to attend the event at the rate of one (1) gallon per person per day. Where a public water supply is not available, potable water, meeting all federal and state requirements for purity, may be used. Any well or wells supplying any such site shall comply with the Wisconsin Administrative Code.
- (10) The applicant shall provide separate enclosed toilets for males and females, meeting all state and local specifications, conveniently located throughout the grounds, sufficient to provide facilities for the maximum number of people to be assembled at the rate of at least one (1) toilet for every one hundred (100) females and at least one (1) toilet for every two hundred (200) males together with an efficient, sanitary means of disposing of waste matter deposited, which is in compliance with all state and local

laws and regulations; a lavatory with running water under pressure and a continuous supply of soap and paper towels shall be provided with each toilet.

- (11) The applicant shall provide a sanitary method of disposing of solid waste, in compliance with state and local laws and regulations, sufficient to dispose of the solid waste production of the maximum number of people to be assembled at the rate of at least two and one-half (2.5) pounds of solid waste per person per day, together with a plan for holding and a plan for collection of all such waste at least once each day of the assembly and sufficient trash cans with tight fitting lids and personnel to perform the task.
- (12) If the assembly is to continue overnight, camping facilities shall be provided in compliance with all state and local requirements as set forth in the Wisconsin Administrative Code and ordinances of the Village and county, sufficient to provide camping accommodations for the maximum number of people to be assembled.
- (k) **Reasons for Denial.** Applicants may be denied for any of the following non-exclusive reasons:
  - (1) It is for a use which would involve a violation of federal or state law or any Village or county ordinance.
  - (2) The granting of the permit would conflict with another permit already granted or for which application is already pending.
  - (3) The application does not contain the information or does not properly satisfy the conditions required by this Section.
  - (4) The application is made less than the required days in advance of the proposed assembly.
  - (5) The policing of the assembly will require so large a number of persons and vehicles, including ambulances, as to prevent adequate service of the needs of the rest of the community.
  - (6) The assembly will substantially hinder the movement of police and fire and other emergency vehicles as to create a substantial risk to persons and property.
  - (7) The assembly will reasonably create a substantial risk of injury to persons or damage to property.
  - (8) The assembly use is so poorly organized that participants are likely to engage in aggressive or destructive activity.
- (l) **Class B Fermented Malt Beverage Licenses.** When fermented malt beverages are sold at any event authorized by this Section, a valid Temporary Fermented Malt Beverage license shall be obtained and applicable Village ordinances shall be fully complied with. Said license must be possessed by the person who filed for the license and shall be presented to any law enforcement officer upon request.
- (m) **Recommendations of Governmental Agencies.** The Village Administrator may submit a copy of the application to law enforcement authorities and other emergency services governmental agencies for their recommendations.



- (n) **Permit Revocation.** Any law enforcement officer, the Village Administrator, or the Village President may revoke a permit already issued if it is deemed that such action is justified by an actual or potential emergency due to weather, fire, riot, other catastrophe or likelihood of a breach of the peace or by a change in the conditions forming the basis of the standards of issuance. In lieu of revoking a permit, an above-named official may require the permittee to file evidence of good and sufficient sureties, insurance in force or other evidence of adequate financial responsibility, running to the Village and such third parties as may be injured or damaged, in an amount depending upon the likelihood of injury or damage as a direct and proximate result of the holding of the usage sufficient to indemnify the Village and such third parties as may be injured or damaged thereby, caused by the permittee, its agents or participants.
- (o) **Fees.** The following fees shall be applicable under this Section:
- (1) ***Gatherings of One Thousand (1,000) to Two Thousand Five Hundred (2,500).*** A fee as prescribed in Section 1-3-1.
  - (2) ***Gatherings of Over Five Thousand (5,000).*** A fee of as prescribed in Section 1-3-1.



## Title 7 ► Chapter 8

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# Flea Markets and Garage Sales

**7-8-1** Regulation of Flea Markets

**7-8-2** Garage Sales

### Sec. 7-8-1 Regulation of Flea Markets.

- (a) **Definitions.** As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:
- (1) **Flea market.** A market, indoors or out of doors, where new or used items are sold from individual locations, with each location being operated independently from the other locations. Items sold include, but are not limited to, household items, antiques, rare items, decorations, used books and used magazines.
  - (2) **Flea market seller.** A person, firm or corporation selling items or offering items for sale at a flea market.
  - (3) **Market.** A place where goods are sold to the public.
- (b) **License Required.** No person, firm or corporation shall operate the business of renting space or allocating space to flea market sellers without first obtaining a license therefor from the Village Board. Applications for license shall be made to the Village Administrator on forms to be provided by the Village. Only one (1) license shall be required for each flea market, and the individual flea market sellers shall not be required to obtain a license under this Section. The fee for such license shall be as prescribed in Section 1-3-1. The Village Board may restrict the license for use on certain dates and times. The site for the flea market shall comply with Village zoning requirements.
- (c) **Information to be Filed.** The information to be filed with the Village Administrator, pursuant to this Section, shall be as follows:
- (1) Name of person, firm, group, corporation, association or organization conducting said sale.
  - (2) Name of owner of the property on which said sale is to be conducted, and consent of owner if applicant is other than the owner.
  - (3) Location at which sale is to be conducted.
  - (4) Number of days of sale.
  - (5) Date, nature of any past sale.

**7-8-1**

- (6) Relationship or connection applicant may have had with any other person, firm, group, organization, association or corporation conducting said sale and the date or dates of such sale.
- (7) Whether or not applicant has been issued any other vendor's license by any local, state or federal agency.
- (8) Sworn statement or affirmation by the person signing that the information therein given is full and true and known to him/her to be so.
- (d) **Records to be Kept by Licensee.** Each person required by this Section to obtain a license shall keep accurate records of the names and addresses of each flea market seller, together with a brief description of the type or types of merchandise offered for sale by that seller.
- (e) **Secondhand Stores Excepted.** No person, firm or corporation having a license as a secondhand store shall be required to obtain a license under this Section for the same business location.
- (f) **More than One Market.** Any person, firm or corporation renting or allocating space to flea market sellers in more than one (1) place of business shall be required to obtain a license for each place of business, provided that one (1) license shall be adequate for locations that are on the same lot, adjacent lots or lots separated only by an alley.
- (g) **Unlawful Transactions.** No person shall sell or offer for sale at any flea market any goods known to such person to be stolen.
- (h) **Purchases From Children.** No flea market seller shall purchase any used household item, antique or used article whatsoever from any person under the age of eighteen (18) years, unless such person is accompanied by the person's parent or guardian.
- (i) **Hours.** Flea markets may remain open for business between the hours of 8:00 a.m. and 8:00 p.m., unless otherwise specified on the license by the Village Board at time of issuance.
- (j) **Penalty.** In addition to the suspension or revocation of a license issued under this Section, any person who shall violate any provision of this Section or any regulation, rule or order made hereunder shall be subject to a penalty as provided in Sec. 1-1-6 of this Code of Ordinances.

## **Sec. 7-8-2      Garage Sales.**

- (a) **Frequency of Sales; Ownership of Merchandise.**
  - (1) Garage sales, yard sales and similar merchandise sales may be held no more than four (4) times per year at any residence, or in the case of a group sale, from the locations of participating households, and may not be held for a total of more than sixteen (16) days in that year. At least one (1) week shall elapse between the end of one garage sale and the start of another. All goods offered for sale shall be household goods or personal possessions from the residence where the sale is being held or, in the case

- of a group sale, from the residences of the participating households. In no case shall any sales become outlets for wholesale or retail commercial sales.
- (2) Any garage sales, yard sales and similar merchandise sales by nonprofit, philanthropic or civic organizations may be held no more than four (4) times per year for not more than a total of sixteen (16) days in that year. In no case shall any sales become outlets for wholesale or retail commercial sales.
- (b) **Hours.** Garage sales shall be conducted between 7:00 a.m. and 8:00 p.m. Each sale shall last no longer than five (5) consecutive days.
- (c) **Signs.**
- (1) Garage sale signs may not have an area more than six (6) square feet with a maximum of two (2) faces. Garage sale signs shall identify the location of the sale and must be located a minimum of five (5) feet from the street right-of-way or nearest lot line. No garage sale sign may unduly obstruct traffic visibility.
- (2) No garage sale sign may be located on utility poles, traffic control devices or on property or the adjoining right-of-way of property the owner of which has not given explicit permission for its location.
- (3) No garage sale sign shall be displayed more than one (1) day before the sale or one (1) day following the sale.
- (4) No more than three (3) garage sale sign may be located at the sale site and no more than three (3) garage sale signs may be located off the site.
- (d) **Definitions.** The following definitions are applicable to this Section:
- (1) **Garage Sale.** All general sales open to the public, conducted from or on a residential premises, for the purpose of disposing of personal property, including but not limited to all sales entitled rummage, lawn, yard, porch, room, backyard, patio or garage sale.
- (2) **Personal Property.** Property which is owned, utilized and maintained and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.



## Title 7 ► Chapter 9

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# Synthetic Drug Establishments

<b>7-9-1</b>	Findings of Fact; Statement of Purpose
<b>7-9-2</b>	Definitions
<b>7-9-3</b>	Licensing of Synthetic Drug Establishments
<b>7-9-4</b>	Prohibited Acts and Conduct

### **Sec. 7-9-1 Findings of Fact; Statement of Purpose.**

- (a) **Findings of Fact.** The Village Board of the Village of Rio finds the following facts to exist:
- (1) Law enforcement authorities have advised Village officials that the increased use of synthetic drugs is negatively affecting the health, safety and welfare of the public.
  - (2) Synthetic drugs are commonly marketed as a safe and legal alternative to marijuana or other controlled substances regulated by Chapter 961, Wis. Stats.
  - (3) Ingestion of synthetic drugs has been shown to produce dangerous side effects such as, but not limited to:
    - a. Nausea;
    - b. Vomiting;
    - c. Hallucinations;
    - d. Blurred vision;
    - e. Delusions;
    - f. Headaches;
    - g. Agitation;
    - h. Anxiety;
    - i. Insomnia;
    - j. Convulsions;
    - k. Addiction;
    - l. Psychosis;
    - m. Elevated blood pressure;
    - n. Loss of consciousness;
    - o. Tremors;
    - p. Suicidal thoughts;

- q. Seizures;
  - r. Paranoid behavior;
  - s. Elevated or irregular heart rates; and
  - t. death.
- (4) Due to the manner in which such synthetic substances are marketed, the manufacture and sale of synthetic drugs is purportedly not fully regulated by the federal Food And Drug Administration (FDA) and/or federal drug enforcement authorities.
  - (5) Because slight molecular alterations can be made to chemical compounds, law enforcement authorities have often found it difficult to take enforcement actions against manufacturers and sellers of synthetic drug products. Synthetic drugs are currently being sold without even basic regulation and licensing requirements of the type other businesses in the Village of Rio must comply with.
  - (6) Like the marketing of synthetic cannabinoids [such as, but not limited to, Spice/K2], as incense, these substances are commercially available and in some instances are marketed as "bath salts" under such names as Bliss, Vanilla Sky, White Lightning, Ivory Snow, Red Dove and Hurricane Charlie, or are packaged or marketed as potpourri, incense, plant food, spice, tobacco, or dietary supplements.
  - (7) The establishment of retail points of sale for synthetic drug products in the Village of Rio would increase the use of synthetic drugs, and would likely have negative secondary effects on nearby businesses and residences.
- (b) **Statement of Purpose.** This Chapter provides certain minimum licensing standards for establishments making available to the public synthetic drugs. The purpose of this Chapter is not to condone illegal activity nor is it to legitimize activity that may now, or in the future, be considered illegal activity under state or federal laws or local ordinances.

## **Sec. 7-9-2 Definitions.**

For purposes of this Chapter, the following words and phrases shall have the following meanings:

- (a) **Synthetic Drug.** The term "synthetic drug" means one (1) or more of the following:
- (1) A substance that a reasonable person would believe is a synthetic drug;
  - (2) A substance that a reasonable person would believe is being purchased, sold or given away as a synthetic drug;
  - (3) A substance which has been listed as a regular synthetic drug in the Wisconsin Statutes or Village ordinances, and their derivatives, analogues, homologues, salts, optical isomers and salts of optical isomers with substantially similar chemical structure and pharmacological activity as a synthetic drug or other controlled substance; or
  - (4) A substance that a person knows or should have known was intended to be consumed by ingestion, inhalation, injection or any other immediate means, and consumption



was intended to cause or simulate a depressant, stimulant or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the depressant, stimulant or hallucinogenic effect on the central nervous system of a controlled substance on Schedule I through V as defined in Chapter 961, Wis. Stats. "Synthetic drug" does not mean legal food or drug ingredients, prescription drugs, alcohol, tobacco or dietary supplements.

- (b) **Synthetic Drug Establishment.** Any business establishment where a person engages in the sale or giving away of synthetic drugs.

### **Sec. 7-9-3 Licensing of Synthetic Drug Establishments.**

- (a) **License Required.** No person shall engage in the business of owning and/or operating a synthetic drug establishment, either exclusively or in connection with any other business enterprise, in the Village of Rio without first obtaining a license for each synthetic drug establishment. Each licensee shall be eighteen (18) years of age or older.
- (b) **License Applications.**
- (1) An application for a synthetic drug establishment license shall be made to the Village of Rio in letter format or on forms supplied by the Village containing the following information:
    - a. A description of the business, including a general description of the types of merchandise sold;
    - b. A description of the location of the premises to be licensed;
    - c. The full names and addresses of the property owner, business owner, business manager or agent, lessee, and business operator, and the date of birth and contact information (email address; cellphone, landline and fax numbers) of each;
    - d. If the applicant is a partnership, limited liability corporation or corporation, the full names and residence addresses of each of the partners including limited partners, and the address of the business entity if different from the address of the synthetic drug establishment; and
    - e. A statement from each of the above individuals as to whether any of the aforementioned individuals have ever been convicted of any crime or offense other than a traffic offense, and if so, a description of the offense, including date, time, place and disposition.
  - (2) An annual license per Section 1-3-1 shall be paid at the time the application is filed with the Village Administrator. The fee will not be prorated and is non-refundable. A separate license shall be obtained for each place of business. Unless suspended or revoked, a license shall be effective from January 1 through December 31 annually.
- (c) **Investigation; Report; Delinquent Taxes.**
- (1) The Village Administrator shall notify, as appropriate, law enforcement authorities, Fire Inspector and health inspection officials of each new and renewal application.

Such authorities shall investigate whether the applicant and/or premises subject to licensing will be able to comply with all regulations, ordinances and laws applicable thereto, including, but not limited to, requesting information from the State of Wisconsin, other states, municipalities and/or any community where the applicant has previously resided or operated a business concerning the applicant's arrest and conviction record.

- (2) Based upon such investigations, the law enforcement authorities, Fire Inspector and health inspection officials shall recommend, in writing, to the Village Board approval, conditional approval or denial, with the reasons provided for such recommendation.
- (3) No license shall be renewed without an investigative report as originally required.
- (4) No license shall be issued for operations on any premises or with any equipment for which taxes, assessments, forfeitures or other financial claims of the Village of Rio are delinquent and unpaid.

(d) **License Determination.**

- (1) Opportunity shall be given by the Village Board to any person to be heard for or against the granting of a license.
- (2) If the Village Administrator or other Village official finds that they have insufficient information to evaluate the license application, they may request that the applicant or his/her agent file an amended application or appear at a reasonable time and place to give under oath information concerning the application. No license shall be granted to any applicant who refuses to cooperate with the investigation process or who fails to appear, personally or by his/her agent, before the Village Board when the license application is under consideration.
- (3) No license under this Chapter shall be issued unless it is approved by the Village Board, upon the recommendation of the investigating/inspecting authorities, and unless the establishment has passed fire and health inspections. The Village Board shall not approve any new or renewal license application if there are reasonable grounds to believe that:
  - a. The granting of said license would result in a violation(s) of the law;
  - b. The license application contains false or misleading information or statements;
  - c. The location of the proposed licensed premises is not appropriate; and/or
  - d. Other good cause exists for denying the license.
- (4) An application may be denied based upon the applicant's or his/her manager's arrest and conviction record if the applicant or his/her manager has been convicted of a felony (unless duly pardoned) or if the applicant or manager has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two (2) offenses which are substantially related to the licensed activity within the five (5) years immediately preceding the license application. Because a license is a privilege, the issuance of

- which is a right granted solely to the Village Board, the Village Board reserves the right to consider the severity, and the facts and circumstances of the offense when making its determination to grant, deny or not renew a license. In addition, the Village Board, at its discretion, may, based upon an arrest or conviction of two (2) or more offenses which are substantially related to the licensed activity within five (5) years immediately preceding, act to suspend such license for a period of up to one (1) year or revoke the license.
- (5) If the Village Board denies the license, the applicant shall be notified, in writing, by personal service or certified mail, of the reasons for the denial. The notice shall also inform the applicant of the opportunity to appear before the Village Board and to provide evidence as to why the denial should be reversed. Written notice of any reconsideration shall be mailed to the applicant a minimum of seven (7) days prior to the Village Board meeting at which the application is to be reconsidered.
- (e) **Posting of License.** Every person licensed in accordance with the provisions of this Chapter shall post such license and keep the same posted in a conspicuous place on the premises.
- (f) **Suspension or Revocation of Licenses.** The Village Board may suspend or revoke any license issued under this Chapter, if, after giving the licensee the opportunity to be heard on the matter, the Village Board finds:
- (1) The licensee has violated a provision of this Chapter or any other law relating to the conduct of its operation including, but not limited to, federal, state or local laws;
  - (2) The licensee secured the license through misrepresentation or fraud regarding any material fact in the license application;
  - (3) The failure of the licensee to cooperate with law enforcement, fire or health authorities in any investigation relating to their operations or failure to admit law enforcement officers into the establishment at any time when people are present in the establishment;
  - (4) The establishment is operated in such a way as to endanger public health or safety; or
  - (5) The establishment is operated in such a way as to constitute a public nuisance under Sec. 823.07, Wis. Stats., or Village ordinances.
- (g) **Consent to Entry.** Every applicant procuring a license thereby consents to the entry of law enforcement authorities or duly authorized representatives of the Village of Rio at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all things and articles that are in violation of Village ordinances or state laws, and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.
- (h) **Licensee or Permittee Responsible for Acts of Help.** A violation of this Chapter by a duly authorized agent or employee of a licensee under this Chapter shall constitute a violation by the licensee.

## **Sec. 7-9-4 Prohibited Acts and Conduct.**

No synthetic drug establishment shall:

- (a) Remain open for business between the hours of 9:00 p.m. and 8:00 a.m.
- (b) Sell synthetic drug products that do not include the name, address and telephone number of the manufacturer, packer and distributor of the product.
- (c) Sell synthetic drug products that do not identify all commodities within the package, including organic and non-organic, chemically synthesized substances and compounds.
- (d) Sell synthetic products to any individual under the age of eighteen (18).
- (e) Sell synthetic drug products that do not comply with all state and federal laws and regulations, including those related to packaging, labeling and weights and measures.
- (f) Be located within three hundred (300) feet of any park, school, daycare facility or area zoned residential or mixed-use.

## Title 7 ► Chapter 10

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# Adult Oriented Establishments

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### **Sec. 7-10-1 Finding of Fact; Purpose.**

- (a) **Findings of Fact.** For purposes of this Chapter, the Village Board of the Village of Rio makes the following findings of fact:
- (1) It is a lawful purpose of the Village Board of the Village of Rio to enact regulatory ordinances under its police powers protecting and promoting the general welfare, orderly conduct, health and safety of its citizens; and
  - (2) The Village Board of the Village of Rio believes that it is in the best interests of the health, safety and general welfare of the citizens of the Village to regulate and thereby diminish the dangerous and/or negative secondary effects that accompany adult oriented establishments; and
  - (3) Such dangerous and/or negative secondary effects associated with adult oriented businesses include, but are not limited to, increased criminal activity of both a sexual and violent nature; lowered property values; urban blight; a loss of pride in a community; and an increase in sexually transmitted diseases; and

- (4) The Village Board of the Village of Rio has knowledge of studies conducted by Phoenix, Arizona; Whittier, California; Adams County, Colorado; Indianapolis, Indiana; New York, New York; New Hanover County, North Carolina; Austin, Texas; Beaumont, Texas; Dallas, Texas; El Paso, Texas; and Newport News, Virginia, that indicate that adult oriented establishments have either a strong or direct correlation to increased crime; and
- (5) A land use study conducted by the City of Phoenix, Arizona, which studied the link between adult oriented establishments and their relationship to increased crime found that the number of sex offenses was five hundred and six percent (506%) greater in neighborhoods where adult oriented establishments were located, and which also concluded that the crimes of sexual assault, lewd and lascivious behavior and child molestation were one hundred and thirty-two percent (132%) greater in neighborhoods in which adult oriented establishments were located; and
- (6) The Village Board of the Village of Rio has knowledge of studies conducted by Garden Grove, California; Los Angeles, California; Indianapolis, Indiana; Minneapolis, Minnesota; Las Vegas, Nevada; New York, New York; New Hanover County, North Carolina; Oklahoma City, Oklahoma; Austin, Texas; El Paso, Texas; Newport News, Virginia; and St. Croix County, Wisconsin, that indicate a correlation between the location of adult oriented establishments and decreased property values of the surrounding areas; and
- (7) A study surveying one hundred (100) Oklahoma City, Oklahoma, real estate appraisers concluded that a concentration of adult oriented businesses may mean large losses in area property values; and
- (8) The Village Board of the Village of Rio has knowledge of studies conducted by Minneapolis, Minnesota; Elliotsville, New York; Islip, New York; New Hanover County, North Carolina; Amarillo, Texas; and El Paso, Texas, which conclude that when adult oriented establishments are allowed to concentrate in one area the negative secondary effects of adult oriented establishments may be magnified; and
- (9) The Elliotsville, New York, Village Board of Trustees found that isolation of adult oriented establishments limits their negative secondary effects; and
- (10) A report by the Islip, New York, Department of Planning found that the location of two (2) adult oriented establishments located near each other created a "dead zone" in an otherwise healthy business district; and
- (11) A legislative report prepared by the Sexually Oriented Business Revision Committee for the Houston, Texas, City Council concluded that due to criminal activity associated with adult oriented establishments, licenses should be required of all adult oriented establishment employees; and
- (12) A report based on a memorandum from the Tuscon Police Department Investigative Services Division to the City Prosecutor conducted by the City of Tuscon, Arizona, dated May 1, 1990, concluded that police officers found a wide variety of illegal

- sexual conduct at all adult oriented establishments and that virtually every establishment had employees arrested for prostitution or obscene sex shows and which found that one of the employees arrested for such acts was a 15 year old girl; and
- (13) A legislative report prepared by the Sexually Oriented Business Revision Committee for the Houston, Texas, City Council concluded that the lack of clear lines of view, insufficient lighting and locked rooms decreases the ability of adult oriented establishment owners, managers and employees from monitoring behavior and preventing lewd behavior on the part of customers, and that this is behavior which may lead to unsanitary conditions and the spread of communicable diseases.

(b) **Purpose.**

- (1) The purpose of this Chapter shall be to license and regulate the operations and locations of adult oriented establishments, as defined herein, within the limits of the Village of Rio. As based upon the following recitation of issues involving such types of businesses, it is deemed to be in the best interests of the health, welfare and safety of the residents of the Village of Rio to adopt this Chapter, pursuant to the authority vested in the Village under the Wisconsin Statutes.
- (2) Based in part upon the foregoing and with the purpose to diminish the negative secondary effects of adult oriented establishments, defined as including, but not limited to, maintenance of property values, protection of the quality of neighborhoods and commercial districts, the quality of life and the health, safety and welfare of residents of the Village of Rio, of adult oriented establishments, the regulations in this Chapter are adopted.

## **Sec. 7-10-2 Definitions.**

The following definitions shall be applicable in this Chapter:

- (a) **Adult Bath Houses.** An establishment or business which provides the services of baths of all kinds, including all forms and methods of hydrotherapy, that is not operated by a medical practitioner or a professional therapist licensed by the State of Wisconsin and which establishment provides to its patrons an opportunity for engaging in "specified sexual activities."
- (b) **Adult Body Painting Studios.** An establishment or business wherein patrons are afforded an opportunity to paint images on a body which is wholly or partially nude. For purposes of this Chapter, the adult body painting studio shall not be deemed to include a tattoo parlor.
- (c) **Adult Bookstore.** An establishment having as a substantial or significant portion of its stock in trade, for sale, rent, lease, inspection or viewing books, films, videos, magazines, periodicals, or other medium which are distinguished or characterized by their emphasis on matters depicting, describing or related to "specific anatomical areas" or "specified sexual activities", as defined herein.

- (d) **Adult Cabaret.** A cabaret which features dancers, strippers, male or female impersonators, or similar entertainers, performing or presenting material having as its dominant theme, or distinguished or characterized by an emphasis on any actual or simulated "specified sexual activities" or "specified anatomical areas."
- (e) **Adult Entertainment.** Any exhibition of any motion pictures, live performance, display or dance of any type, which has as its dominant theme or is distinguished or characterized by an emphasis on any actual or simulated "specified sexual activities" or "specified anatomical areas" as herein defined or the removal of articles of clothing or appearing partially or totally nude. Adult entertainment establishments are those in which the predominant business or attraction is the offering to customers of activities or material which is intended to provide sexual stimulation or sexual gratification. Adult entertainment establishments are also those that are distinguished by an emphasis on, or the advertising or promotion of, employees or agents engaging in specified sexual activities or displaying specified anatomical areas.
- (f) **Adult Massage Parlors.** An establishment or business with or without sleeping accommodations which provides services of massage and body manipulation, including exercises, heat and light treatments of the body, and all forms and methods of physiotherapy, not operated by a medical practitioner or professional physical therapist licensed by the State of Wisconsin and which establishment provides for its patrons the opportunity to engage in "specified sexual activity."
- (g) **Adult Mini-Motion Picture Theater.** An enclosed building with a capacity of less than fifty (50) persons used for presenting material having as its dominant theme or distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as herein defined for observation by patrons therein.
- (h) **Adult Modeling Studios.** An establishment or business which provides the service of modeling for the purpose of reproducing the human body wholly or partially nude by means of photography, painting, sketching, drawing or otherwise.
- (i) **Adult Motion Picture Theater.** An enclosed building with a capacity of fifty (50) or more persons used for presenting material having as its dominant theme or distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined herein for observation by patrons therein.
- (j) **Adult Novelty Shop.** An establishment or business having as a substantial or significant portion of its stock in trade in novelty or other items including movies, toys, videos, books, periodicals, and any device, which are distinguished or characterized by an emphasis on, or designed for, "specified sexual activities", as defined herein, or simulating such activity.
- (k) **Adult Oriented Establishment.** Shall include, but is not limited to, adult bookstores, adult motion picture theaters, adult mini-motion picture establishments, adult cabaret, adult tattoo or body piercing establishments, and further means any premises to which public



patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purposes of viewing adult oriented motion pictures or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, whether or not such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. "Adult-Oriented Establishments" also includes "Live Sex Act Businesses".

- (l) **Adult Store.** An establishment having as its stock in trade for sale, rent, lease, inspection or viewing books, films, video cassettes, magazines or other periodicals or sexual tools/toys/paraphernalia which are distinguished or characterized by their emphasis on matters depicting, describing or relating to "specific sexual activities" or "specified anatomical areas" as defined herein, including adult-oriented film, movies or live performances, for observation by patrons therein.
- (m) **Consideration.** The payment of money or the exchange of any item of value for:
  - (1) The right to be taken to or enter the business premises or any portion thereof; or
  - (2) The right to remain on the business premises, or any portion thereof; or
  - (3) The right to purchase any item permitting the right to enter, or remain on, the business premises, or any portion thereof; or
  - (4) The right to a membership permitting the right to enter, or remain on, the business premises, or any portion thereof.
- (n) **Live Sex Act.** Any act whereby one (1) or more persons engage in live conduct which involves Specified Sexual Activities.
- (o) **Live Sex Act Business.** Any business in which one or more persons may view, or may participate in, a live sex act for a consideration.
- (p) **Operators.** Any person, partnership, association, or corporation operating, conducting, maintaining or owning any adult oriented establishment.
- (q) **Sensitive Areas.** An area which could be negatively affected by being in close proximity to an adult oriented establishment, including, but not limited to, child care facilities, schools, places of worship, libraries, community centers, playgrounds, and recreation areas.
- (r) **Specified Anatomical Areas.** Means:
  - (1) Less than completely and opaquely covered human genitals, pubic region, buttocks and female breast below a point immediately above the top of the areola.
  - (2) Human male genitals in a discernible turgid state, even if opaquely covered.
- (s) **Specified Sexual Activities.** Simulate or actual:
  - (1) Showing of human genitals in a state of sexual stimulation or arousal.
  - (2) Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochistic abuse, fellatio or cunnilingus.
  - (3) Fondling or erotic touching of human genitals, pubic region, buttock or female breasts.
- (t) **Tattoo Establishment.** The premises where a tattooist applies a tattoo to another person.
- (u) **Tattooist.** A person who tattoos another person at that person's request.

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- (v) **Tattoo.** As a verb, means to insert pigment under the surface of the skin of a person, by pricking with a needle or otherwise, so as to produce an indelible mark or figure through the skin.
- (w) **Youth Center.** Any center which provides, on a regular basis, recreational, vocational, academic or social services for persons younger than twenty-one (21) years of age for those persons and their families.

**Sec. 7-10-3 Adult Oriented Establishment License.**

- (a) **License Requirement.** Except as provided in Subsection (d) below, from and after the original effective date of this Chapter, no adult oriented establishment shall be operated or maintained in the Village of Rio without having procured a license as provided in this Chapter and having further complied with all statutes, ordinances and regulations of the state, county and Village applicable thereto.
- (b) **License Required for Each Place of Business.** A license may be issued only for one (1) adult oriented establishment located at a fixed and certain place. Any person who desires to operate more than one (1) adult oriented establishment shall have a license for each.
- (c) **Non-Transferable License.** No license or interest in a license may be transferred to any person.
- (d) **Existing Adult Entertainment Business.** All adult oriented establishments existing at the time of the passage of this Chapter must submit an application for a license within ninety (90) days of the passage of this Chapter. If an application is not received within such ninety (90) day period, then such existing adult oriented establishment shall cease operations.
- (e) **Number of Licenses Issued.** There shall be a limit of one (1) license issued and utilized at any one time in the Village of Rio. If and when the existing licensee retires that license or does not renew his/her license, said license shall be deemed revoked and be available for the next approved applicant/location.

*Cross-Reference:* Title 13, Chapter 1, Article C Adult Entertainment Zoning.

**Sec. 7-10-4 Application for License.**

- (a) **Application.** Any person desiring to secure a license shall make application to the Village Administrator. The application shall be filed in duplicate with and dated by the Village Administrator. A copy of the application shall be distributed promptly by the Village Administrator to the applicant and pertinent law enforcement authorities.

- (b) **Required Application Information.** The application for a license shall be upon a form provided by the Village Administrator. An applicant for a license interested directly in the ownership or operation of the business shall furnish the following information under oath:
- (1) Name and address, including all aliases, and telephone and email addresses.
  - (2) Written proof that the individual is at least eighteen (18) years of age.
  - (3) The exact nature of the adult oriented use to be conducted and the address of the adult oriented establishment to be operated by the applicant.
  - (4) The address of the adult oriented establishment to be operated by the applicant.
  - (5) If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the name and address of the registered agent, the name and address of all shareholders owning more than five percent (5%) of the stock in such corporation and all officers and directors of the corporation.
  - (6) If the applicant is a partnership or joint venture or any other type of organization where two (2) or more persons have a financial interest, the application shall specify the name of the entity, the name and address of any general partner(s) and all persons for the management and operation of the adult-oriented establishment.
  - (7) Applications shall be signed and sworn to by the applicant as provided by Sec. 887.01, Wis. Stats., and accompanied by the fee prescribed in Section 1-3-1.
  - (8) Applicants must provide a copy of their Wisconsin Seller's Permit, along with their application, as proof that they are in good standing for sales tax purposes before they may be issued a license.
  - (9) Any false statement contained in such application shall automatically nullify any license pursuant thereto.
  - (10) If any fact given in an application subsequently changes, the licensee shall file a notice in writing of such change with the Village Administrator within ten (10) days.

## **Sec. 7-10-5 License Review Procedure.**

- (a) **Background Investigation.** Upon the request of the Village Administrator, law enforcement authorities shall make an investigation of the applicant to determine whether the applicant possessed the qualifications necessary for issuance of a license under this Chapter within fourteen (14) days of receiving an application.
- (b) **Safety Inspections.** The Fire Inspector and Building Inspector shall inspect the premises proposed to be licensed to determine whether such premises conforms to this Chapter and with the ordinances of the Village of Rio and the laws of the state and any administrative regulations which are applicable which have been issued by the state or any agency of the state within fourteen (14) days of receiving an application.
- (c) **Reports.** Each of the above officials shall file written reports to the Village Administrator. If any such report is unfavorable, a copy thereof shall be mailed to the applicant together with a notice of the next regularly scheduled Village Board meeting.

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- (d) **Village Board Action Required.** No license shall be granted under the Chapter until the Village Board shall authorize the same.
- (e) **Failure to Provide Information.** Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his/her refusal or failure to appear at any reasonable time and place for examination under oath regarding such application, or his/her refusal to submit to or cooperate with any investigation required by this Chapter, shall constitute an admission by the applicant that he is ineligible for such license and shall be grounds for denial thereof by the Village Board.
- (f) **Application Denial.** Whenever an application is denied, the Village Administrator shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held before the next regularly scheduled Village Board meeting as hereinafter provided.

## **Sec. 7-10-6 Standards for Issuance of License.**

To receive a license to operate an adult oriented establishment, an applicant must meet the following standards:

- (a) **Individual Applicants.** If the applicant is an individual:
  - (1) The applicant shall be at least eighteen (18) years of age.
  - (2) The applicant shall not have been found to have previously violated this Chapter or an ordinance of like terms in another jurisdiction or have been arrested or convicted for a violation for which licensure may be denied under Sec. 111.335, Wis. Stats., within five (5) years immediately preceding the date of the application.
- (b) **Corporate Applicants.** If the applicant is a corporation:
  - (1) All officers, directors and stockholders required to be named under Section 7-10-3(b) shall be at least eighteen (18) years of age.
  - (2) No officer, director or stockholder required to be named under Section 7-10-3(b) shall have been found to have previously violated this Section within five (5) years immediately preceding the date of the application.
- (c) **Partnership or Joint Venture Applicants.** If the applicant is a partnership, joint venture or any other type of organization where two (2) or more persons have a financial interest, all persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age.

## **Sec. 7-10-7 Display of License or Permit.**

The license shall be displayed in a conspicuous public place in the adult oriented establishment. Licenses of employees or agents that work in said establishment that relate to this licensed establishment shall be displayed with the adult oriented establishment license.

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

- (a) Every license issued pursuant to this Chapter will terminate at the expiration of one (1) year from the date of issuance unless sooner revoked and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the Village Administrator. The application for renewal must be filed no later than sixty (60) days before the license expires. The application for renewal shall follow the same procedure as an original application.
- (b) A license renewal fee per Section 1-3-1 shall be submitted with the application for renewal. In addition to the renewal fee, a later penalty shall be assessed against the applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, one-half (1/2) of the total fees collected shall be returned.
- (c) If law enforcement authorities are aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the Village Administrator.

## **Sec. 7-10-9    Revocation of License.**

- (a) **License Revocation.** The Village Board shall revoke a license or permit for any of the following reasons:
  - (1) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.
  - (2) The operator or any employee of the operator violates any provision of this Chapter or any rule of regulation adopted by the Village Board pursuant to this Chapter provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of sixty (60) days if the Village Board shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.
  - (3) The operator becomes ineligible to obtain a license or permit.
  - (4) Any cost or fee required to be paid by this Chapter is not paid.
  - (5) Any intoxicating liquor or malt beverage is served or consumed on the premises of the adult oriented establishment which is not so licensed.
- (b) **Notice.** The Village Board before revoking or suspending any license or permit shall give the operator at least ten (10) days' written notice of the charges against him/her and the opportunity for a public hearing before the Village Board as hereinafter provided.
- (c) **License Transfers.** The transfer of a license or any interest in a license shall automatically and immediately revoke the license.
- (d) **Loss of License Eligibility.** Any operator whose license is revoked shall not be eligible to receive a license for one (1) year from the date of revocation. No location or premises

for which a license has been issued shall be used as an adult oriented establishment for six (6) months from the date of revocation of the license.

## **Sec. 7-10-10 Physical Location and Layout of Adult Oriented Establishments.**

- (a) **Physical Location.** No adult oriented establishment shall be located:
- (1) Within five hundred (500) feet of an existing adult oriented establishment, or other late night business, including but not limited to laundromats or amusement arcades.
  - (2) Within five hundred (500) feet of any premises of a Licensee of a Class "B" Fermented Malt Beverage Retailer's License or Retail "Class B" Liquor License.
  - (3) Within five hundred (500) feet of a "youth center" or "sensitive area" as defined by this ordinance.
  - (4) Upon any land except lands within the Village which are zoned for adult oriented establishments, either as a permitted or conditional use of property.
  - (5) Within five hundred (500) feet of an area zoned residential.

[**Note:** For purposes of this Section, distances are to be measured in a straight line, without regard to intervening structures or objects, from the property line of the adult oriented establishment, to the nearest property line of another adult oriented establishment, sensitive area, or the premises of a Licensee of a "Class B" Fermented Malt Beverage Retailer's License or Retail "Class B" Liquor License, or a residential dwelling.]

- (b) **Interior Layout.** Any adult oriented establishment having available for customers, patrons or members any booth, room or cubicle for the private viewing of any adult entertainment must comply with the following requirements:
- (1) **Access.** Each booth, room or cubicle shall be totally accessible to and from aisles and public areas of the adult oriented establishment and shall be unobstructed by any door, lock or other control type devices.
  - (2) **Booth Construction Standards.** Every booth, room or cubicle shall meet the following construction requirements:
    - a. Each booth, room or cubicle shall be separated from adjacent booths, rooms and cubicles and any nonpublic areas by a wall.
    - b. Have at least one (1) side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying same.
    - c. All walls shall be solid and without any openings, extended from the floor to a height of not less than six (6) feet and be light colored, nonabsorbent, smooth textured and easily cleanable.
    - d. The floor must be light colored, nonabsorbent, smooth textured and easily cleanable.

- e. The lighting level of each booth, room or cubicle, when not in use, shall be a minimum of ten (10) foot candles at all times as measured from the floor.
- (3) **Occupants.** Only one (1) individual shall occupy a booth, room or cubicle at any time. No occupant of same shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth. No individual shall damage or deface any portion of the booth.

## **Sec. 7-10-11 Responsibilities of the Operator.**

### **(a) Registration of Employees.**

- (1) The operator shall maintain a register of all employees, showing the name and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, phone numbers, Social Security number, date of employment and termination and duties of each employee. The above information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.
- (2) The operator shall make the register of employees available immediately for inspection by a law enforcement officer upon demand at all reasonable times.
- (b) Any person desiring to provide entertainment in the Village of Rio as an entertainer at any facility governed under this Chapter, before engaging in any such entertainment, shall register at the Police Department and pay a fee per Section 1-3-1. The individual shall provide full name and permanent address, date and place of birth, information concerning height, weight, hair and eye color, gender and race, two (2) forms of identification with at least one (1) form being photo identification conforming such information, and if requested, fingerprints, stage name and booking agent if any. Such registration shall be valid for one (1) year from date of registration, or if employed by an establishment holding a liquor license, on June 30th following issuance. No person shall permit entertainment by an individual subject to this Section without prior required registration.

### **(c) Operators Responsible for Acts of Employees.**

- (1) Every act or omission by an employee constituting a violation of the provisions of this Chapter shall be deemed the act or omission of the operator if such act or omission occurs, either with the authorization, knowledge or approval of the operator or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.
- (2) Any act or omission of any employee constituting a violating of the provisions of this Chapter shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.
- (3) No operator shall suffer, allow or permit any employee or entertainer and no employee or entertainer shall intentionally touch the clothed or unclothed body of any

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patron or customer at the establishment premises, at any point below the neck and above the knee of the person, excluding that part of the person's arm below the wrist, commonly referred to as the hand. It shall further be unlawful for any patron or customer in or upon the establishment premises, to touch any portion of the clothed or unclothed body of an operator, employee or entertainer below the neck and above the knee, excluding the part of the operator's employee's or performer's arm below the wrist (the hand).

- (d) **Minors Prohibited.** No employee of an adult oriented establishment shall allow any minor to loiter around or to frequent an adult oriented establishment or to allow any minor to view adult entertainment as defined herein.
- (e) **Sanitary Premises Required.** The operator shall maintain the premises in a clean and sanitary manner at all times.
- (f) **Required Lighting.** The operator shall maintain at least ten (10) foot candles of light in the public portions of the establishment, including aisles, at all times. However, if a lesser level of illumination in the aisles shall be necessary to enable a patron to view the adult entertainment in a booth, room or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisles provided, however, at no time shall there be less than one (1) foot candle of illumination in such aisles as measured from the floor.
- (g) **Compliance With Other Regulations.** The operator shall ensure compliance of the establishment and its patrons with the provisions of this Chapter, other Village ordinances (including, but not limited to, zoning requirements) and state regulations.
- (h) **Age of Employees.** All employees of the establishment are to be at least eighteen (18) years of age.

## **Sec. 7-10-12 Administrative Procedure and Review.**

Chapter 68, Wis. Stats., [Title 4 of this Code of Ordinances] shall govern the administrative procedure and review regarding the granting, denial, renewal, nonrenewal, revocation or suspension of a license.

## **Sec. 7-10-13 Exclusions.**

All private and public schools as defined in Ch. 115, Wis. Stats., located within the Village of Rio are exempt from obtaining a license hereunder when instructing pupils in sex education as part of its curriculum. All licensed medical care or professional nursing care facilities located within the Village of Rio, and agents of the Village of Rio and all town, county, state and federal departments and agencies are exempt from obtaining a license hereunder when engaged in the providing of medical care or human growth and development education.



## **Sec. 7-10-14 Enforcement; Penalties.**

- (a) **Inspections.** Law enforcement officers, Building Inspectors and Fire Inspectors shall have the authority to enter any adult oriented establishment at all reasonable times to inspect the premises and enforce this Chapter.
- (b) **Penalties.** Any person who shall violate any provisions of this Chapter or who shall fail to obtain a license or permit as required hereunder, or who shall operate after his/her license is revoked, shall be subject to penalty as follows:
  - (1) **First Offense.** Any person who shall violate any provision of this Chapter shall, upon conviction thereof, forfeit a penalty per Section 1-1-6, together with the cost of prosecution and a penalty assessment as provided by Sec. 165.87, Wis. Stats., and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the County Jail until such forfeiture and costs are paid, but not exceeding ninety (90) days.
  - (2) **Second Offense.** Any person found guilty of violating any provision of this Chapter who shall previously have been convicted of a violation of the same ordinance within one (1) year shall, upon conviction thereof, forfeit a penalty per Section 1-1-6 for each such offense, together with the costs of prosecution, and a penalty assessment as provided by Sec. 165.87, Wis. Stats., and in default of payment of such forfeiture and cost shall be imprisoned in the County Jail until such forfeiture and costs of prosecution are paid, but not to exceed six (6) months.
  - (3) **Continued Violations.** Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in the Chapter shall preclude the Village of Rio from maintaining any appropriate action to prevent or remove a violation of any provisions of this Chapter.
  - (4) **Execution Against Defendant's Property.** Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of the court for violation of any ordinance of the Village of Rio, the court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for such forfeiture and costs.



## Title 7 ► Chapter 11

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# Regulation of Nonmetallic Mining

<b>7-11-1</b>	Statutory Provisions Adopted
<b>7-11-2</b>	Definitions
<b>7-11-3</b>	Existing Nonmetallic Mining Operations
<b>7-11-4</b>	Exempt Activities
<b>7-11-5</b>	Permit Required for Nonmetallic Mining
<b>7-11-6</b>	Permit Revocation
<b>7-11-7</b>	Blasting and/or Rock Crushing

### **Sec. 7-11-1 Statutory Provisions Adopted.**

This Chapter is adopted pursuant to Section 101.15 and Ch. 295, Wis. Stats., and SPS 308, Wis. Adm. Code, which are adopted by reference and made a part of this Chapter as if fully set forth herein.

### **Sec. 7-11-2 Definitions.**

As used in this Chapter:

- (a) **Environmental Pollution** has the meaning specified under Sec. 144.01(3), Wis. Stats.
- (b) **Nonmetallic Mining or Nonmetallic Mining Operation** means operations or activities for the extraction from the earth for sale or use by the operator of mineral aggregates such as stone, sand and gravel, fill material and nonmetallic minerals such as asbestos, beryl, clay, feldspar, peat and talc, related operations or activities such as excavation, grading or dredging if the purpose of those operations or activities is the extraction of mineral aggregates and nonmetallic minerals and related processes such as crushing, screening, scalping, dewatering and blending.
- (c) **Nonmetallic Mining Refuse** means waste soil, rock, mineral, liquid, vegetation and other waste material resulting from a nonmetallic mining operation. This term does not include merchantable by-products resulting directly from or displaced by the nonmetallic mining operation.
- (d) **Nonmetallic Mining Site or Site** means the location where a nonmetallic mining operation is proposed or conducted, including all surface areas from which materials are removed, related storage and processing areas, areas where nonmetallic mining refuse is deposited and areas disturbed by the nonmetallic mining operation by activities such as the construction or improvement of roads or haulageways.

**7-11-2**

- (e) **Operator** means any person who is engaged in a nonmetallic mining operation or nonmetallic mining site reclamation or who applies for or holds a nonmetallic mining permit issued under this nonmetallic mining reclamation ordinance whether individually, jointly or through subsidiaries, agents, employees, contractors or subcontractors.
- (f) **Reclamation** means the rehabilitation of a nonmetallic mining site including, but not limited to, removal of nonmetallic mining refuse, grading of the site, replacement of topsoil, stabilization of soil conditions, establishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution, construction of fences and, if practical, restoration of plant, fish and wildlife habitat.
- (g) **Replacement of Topsoil** means the replacement of the topsoil which was removed or disturbed by a nonmetallic mining operation or the provision of soil which is at least as adequate as the topsoil which was removed or disturbed for the purposes of providing adequate vegetative cover and stabilization of soil conditions.

### **Sec. 7-11-3 Existing Nonmetallic Mining Operations.**

This nonmetallic mining reclamation Chapter shall apply to any portion of a nonmetallic mining site, including unreclaimed portions of a site which were mined prior to the effective date of this Chapter.

### **Sec. 7-11-4 Exempt Activities.**

This nonmetallic mining reclamation Chapter shall not apply to the following activities:

- (a) Excavations or grading by a person solely for domestic use at his or her residence.
- (b) Excavations or grading conducted for highway construction purposes within the highway right-of-way.
- (c) Grading conducted for farming, preparing a construction site or restoring land following a flood or natural disaster.
- (d) Excavations for building construction purposes.
- (e) Any mining operation, the reclamation of which is required in a permit obtained under Sections 144.80 to 144.94, Wis. Stats.
- (f) Any activities conducted at a solid or hazardous waste disposal site required to prepare, operate or close a solid waste disposal facility under Sections 144.435 to 144.445, Wis. Stats., or a hazardous waste disposal facility under Sections 144.60 to 144.74, Wis. Stats., but a nonmetallic mining reclamation ordinance may apply to activities related to solid or hazardous waste disposal which are conducted at a nonmetallic site separate from the solid or hazardous waste disposal facility such as activities to obtain nonmetallic minerals to be used for lining, capping, covering or constructing berms, dikes or roads.

**Sec. 7-11-5 Permit Required for Nonmetallic Mining.**

- (a) **Permit Required.** No person shall operate any nonmetallic mining site or operation within the Village of Rio unless he/she obtains a nonmetallic mining permit from the Village Board. The fee for such permit shall be as established in Section 1-3-1, plus any actual Village administrative expenses. Operators of existing nonmetallic mining operations shall apply for such permit within thirty (30) days of the effective date of this Chapter.
- (b) **Required Permit Information.** An application for a nonmetallic mining permit shall be submitted by the operator and shall include:
  - (1) An adequate description of the operation, including a legal description of the property;
  - (2) A plan of the site showing the proposed and existing roads and drives, and the sources, quantity and disposition of water to be used, if any;
  - (3) Estimated dates for completion of the extraction and commencement and completion dates for the reclamation;
  - (4) A reclamation plan and such other information as may be necessary to determine the nature of the operation and the effect on the surrounding area;
  - (5) Methods of screening from adjacent properties;
  - (6) Hours of operation;
  - (7) Dust and noise control;
  - (8) Maximum depth;
  - (9) Blasting procedures;
  - (10) Location and height of stockpiles; and
  - (11) Such other information the Village Board deems pertinent to the operation.
- (c) **Reclamation Plan.** The reclamation plan shall contain adequate provision that:
  - (1) All final slopes around the area be flatter than a three (3) to one (1) horizontal slope in a sand, gravel or borrow pit operation, or in a safe angle or repose in a quarrying operation;
  - (2) Excavations below the grade of the nearest abutting public street or highway shall be set back from the street or highway a distance not less than that required for buildings and structures in the same zoning district;
  - (3) Excavations made to a water-producing depth shall be not less than three (3) feet measured from the low water mark;
  - (4) All final slopes shall be covered with adequate topsoil and seeded to prevent erosion;
  - (5) The plan shall require that, after completion of the anticipated operation, the area shall be cleared of all debris and be left in a workmanlike condition, subject to the approval of the Village Board;
  - (6) There is a timetable for completion of various stages of reclamation of the nonmetallic mining site.
- (d) **Applications.** All applications for a license hereunder shall be made in writing upon the written form provided by the Village and distributed by the Village Administrator. All applications for permits hereunder shall be signed by the applicant and filed with the the Village Administrator at least sixty (60) days prior to the licensing period. The Village

Administrator shall immediately refer all applications for a license hereunder to the Village Board for public hearing and approval. The operator shall receive written notice of the public hearing. The license shall be for a period of time as stated in the application or as modified by the Village Board. Modification of the application or reclamation plan may be permitted or additional conditions may be required upon application. The Village Board shall consider the effect of the operation and the proposed reclamation upon existing and future conditions, including streets, neighboring land development, land use drainage, water supply, water pollution, air pollution, soil erosion, natural beauty and land value of the locality. The Village Board may approve, approve conditionally or reject the application and reclamation plan.

- (e) **Financial Assurance.** Before a license and reclamation plan is approved by the Village Board, the operator shall submit an agreement and performance bond or cash escrow agreement to assure the following:
- (1) The operator shall pay for the cost of all improvements required in the reclamation plan by the Village Board or other appropriate regulatory authority.
  - (2) Guaranteed completion of the required reclamation within a period determined by the Village Board or other appropriate regulatory authority.
  - (3) Payment by the operator for all costs incurred by the Village for review and inspection. This would include preparation and review of plans and specifications by the Village Engineer and Village Attorney, as well as other costs of a similar nature.
  - (4) The Village may elect to have stages of the reclamation plan performed under the terms of a cash escrow agreement.
  - (5) The required performance bond or cash escrow agreement shall be equal to one and one-quarter (1-1/4) times the Village Engineer's estimated cost of the required improvements.
  - (6) If the required reclamation is not complete within the designated period, all amounts held under the escrow agreement or performance bond shall be turned over and delivered to the Village and applied to the cost of the required reclamation. Any balance remaining after such reclamation has been done shall be returned to the operator. The Village Board, at its option, may extend the bond period for additional periods.
- (f) **Fences.** Prior to reclamation, nonmetallic mining sites abutting areas zoned residential shall be enclosed by a security fence of not less than four (4) feet in height. Fence gates shall be locked or secured when the site is unattended so as to prevent uncontrolled access by children to the site.
- (g) **Inspection.** An authorized agent of the Village may enter the premises of a nonmetallic mining operation in the performance of his or her official duties by permission of the property owner or operator or pursuant to a special inspection warrant issued under the Wisconsin Statutes, in order to inspect those premises and to ascertain compliance with this nonmetallic mining reclamation Chapter.
- (h) **Prohibitions and Orders.** Nonmetallic mining operations within the Village are prohibited if the nonmetallic mining site cannot be reclaimed in compliance with the standards of this Chapter or if other requirements of this Chapter are not met.

## **Sec. 7-11-6 Permit Revocation.**

If any permit is revoked, cancelled, rescinded or terminated, the operator shall be given written notice of any charges or violations against him/her or the reasons proposed for revocation and shall have an opportunity to be heard before the Village Board.

## **Sec. 7-11-7 Blasting and/or Rock Crushing.**

- (a) **Definitions.** The following definitions shall apply in the interpretation and enforcement of this Section:
  - (1) **Blasting.** A method of loosening, moving or shattering masses of solid matter by use of explosive compounds to prepare stone for crushing, to prepare stone for building and/or ornamental use, or to prepare property for development.
  - (2) **Person.** Any individual, partner, corporation, company, trustee or association, together with the respective servants, agents and employees thereof.
  - (3) **Rock Crusher.** Any device, machine, apparatus or equipment used either individually or in conjunction with any other device, machine, apparatus or equipment for the purpose of crushing, grinding, breaking or pulverizing rock or stone.
- (b) **Operation.** No person within the Village shall operate a rock crusher or perform blasting in such a manner so that any dust, dirt or vibration from such operation shall, in any way, damage or injure any person or property within the Village. All blasting within the Village shall be performed according to the requirements of the Wisconsin Administrative Code.
- (c) **Permit.**
  - (1) **Permit Required.** No person within the Village of Rio shall operate a rock crusher or perform blasting who does not possess a proper permit therefor from the Village.
  - (2) **Applications.** All applications for permits hereunder shall be made in writing upon the written form provided by the Village and distributed by the Village Administrator. All applications for permits hereunder shall be signed by the applicant and filed with the Village Administrator at least sixty (60) days prior to the licensing period. The Village Administrator shall immediately refer all applications for permits hereunder to the Village Engineer. The Village Administrator shall issue a permit hereunder only after first receiving the recommendation of the Village Engineer, the duly executed certified check for the permit fee as hereinafter provided and the submittal of the Plan of Operation, if required, as approved by the Village Engineer.
  - (3) **Certified Check.** Each application for a permit hereunder shall be accompanied by payment of the required permit fee as hereinafter provided, or a renewal thereof, the same to be payable to the Village of Rio.
  - (4) **Plan of Operation.** Each application to permit a rock crusher hereunder or renewal thereof shall be accompanied by a Plan of Operation which shall include: methods of screening from adjacent properties, hours of operation, hours of blasting and

operation of rock crusher, dust and noise control, blasting procedures, location and height of stock piles, whether a rock crusher will be needed and how often, water supply, drainage course, maximum depth, legal description of property in question and other information the Village Engineer deems pertinent to the proposed operation. Such Plan of Reorganization shall be approved by the Village Engineer.

- (5) Each application for a blasting permit shall be accompanied by a Certificate of Insurance identifying the Village of Rio as a party insured in the amount of Five Hundred Thousand Dollars (\$500,000.00) for damage to property, and Five Hundred Thousand Dollars (\$500,000.00) for injury to one (1) person and One Million Dollars (\$1,000,000.00) for injury to more than one (1) person caused by the blasting.
- (d) **Renewals.** All requests for renewals of permits hereunder shall be made at least sixty (60) days prior to the expiration date of the permit and must comply with all requirements of Subsection (c) above.
- (e) **Blasting Procedures and Controls.**
- (1) **Energy Ratio.** The allowable vibration of any blast at the nearest occupied or used building off the subject premises shall not exceed an energy ratio of 0.5 or resultant particle velocity of 1.35" per second based on the following formula:
- $$\text{Energy ratio} = 0.5 = 10.823 f^2 A^2 \text{ where: } f = \text{frequency in cycles per second,} \\ A = \text{amplitude or displacement in inches}$$
- $$\text{Energy ratio} = .274 V^2 \text{ (V = resultant particles velocity expressed in inches per second)}$$
- (2) **Measurement of Blasts.** The operator of the quarry operation, when requested to do so by the Village Engineer, shall measure and submit data to substantiate compliance with the above formula and the operator of the quarry operation, when requested to do so by the Village Engineer, shall measure air blast. This verification shall be performed by a seismological engineering firm acceptable to the Village or by the Village Engineer. Instrumentation shall be by seismograph similar to VME Seismolog Model "B" and approved seismograph sound measuring equipment or approved equivalents. All expenses for these tests shall be paid by the quarry operator.
- (3) **Blasting Log.** A log in duplicate shall be kept of each blast on forms similar to the one on file with the Village Administrator. The original copy of this blasting log shall be filed with the Village Administrator within forty-eight (48) hours after the blast, and a copy shall be kept on file at the quarry office.
- (4) **Cover Material.** Operators of quarries for building and/or ornamental stone removal shall cover Primacord, other detonating cord or surface-laid blasting devices with at least one foot (1') of dirt or other suitable cover material.
- (f) **Permit Fee.** The permit fee for any permit issued pursuant to this Section shall be as set forth below. No permit fee shall be prorated. All permits issued hereunder shall expire on December 31 following the date of issue:



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- (1) Quarries using blasting to supply buildings and/or ornamental stone: Per Section 1-3-1.
  - (2) Gravel crushing operations using portable or fixed crushing equipment less than thirty (30) days per year: Annual per Section 1-3-1.
  - (g) **Penalty.** Any person who shall violate any of the provisions of this Section shall be subject to a penalty as provided in Section 1-1-6 of this Code of Ordinances. However, upon conviction for the violation of any of the provisions of this Section by the holder of a permit issued hereunder, and in addition to the forfeiture provided, such permit shall thereupon be cancelled, revoked, rescinded and terminated.
  - (h) **Enforcement.** Before renewal of any license issued under this Section is refused or any license is revoked, cancelled, rescinded or terminated, the licensee shall be given written notice of any charges or violations against him or the reasons proposed for nonrenewal or revocation and shall have an opportunity to be heard before the Village Board.



## Title 7 ► Chapter 12

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# Pawnbrokers and Second Hand Article and Jewelry Dealers

### 7-12-1 Regulation of Pawnbrokers and Second Hand Article and Jewelry Dealers

#### **Sec. 7-12-1 Regulation of Pawnbrokers and Second Hand Article and Jewelry Dealers.**

- (a) **Statutory Authorization.** This Section is adopted pursuant to authorization in Sec. 134.71, Wis. Stats.
- (b) **Title.** This Section shall be known as the Pawnbrokers and Second Hand Article and Jewelry Dealers Ordinance for the Village of Rio.
- (c) **Terms.** All of the terms of Sec. 134.71, Wis. Stats., except as otherwise provided herein, are expressly incorporated herein and made a part of this Section.
- (d) **License Application.** As an additional requirement to obtain a license from the Village to operate as a pawnbroker, second hand article dealer or second hand jewelry dealer, the applicant shall provide a photograph of the applicant. The photograph shall be kept on file with the Village Administrator. In the event an applicant is more than one person or is a corporation, a photograph of each and every person who is applying or all shareholders, officers and directors of the corporation shall be provided to the Village Administrator. Additionally, all employees of the applicant shall be photographed and such photographs provided to the Village Administrator. This is a continuing obligation, in other words, at the time that the licensed pawnbroker or second hand article business has any new or additional owner, agent, officer, director or employee, the dealer shall provide a photograph of the new or additional party to the Village Administrator.
- (e) **Penalties.** The penalties of Sec. 134.71, Wis. Stats., are also incorporated herein, except that the Village of Rio shall be entitled to collect such penalties as an ordinance forfeiture herein. Additionally, the failure of a dealer or its owners, officers, directors or employees to comply with the photograph requirements set forth above shall constitute a violation of this Section and subject said persons to the same penalties as otherwise provided in this Section.

*State Law Reference:* Sec. 134.71, Wis. Stats.



## Title 7 ► Chapter 13

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

<b>7-13-1</b>	Purpose; Definitions
<b>7-13-2</b>	Permit Requirements

### **Sec. 7-13-1 Purpose; Definitions.**

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

### **Sec. 7-13-2 Permit Requirements.**

- (a) **Permit Required.** No person shall form, direct, lead or participate in any procession, parade, run, walk, marathon, bicycle race, etc., on any street or highway under the jurisdiction of the Village of Rio unless a permit has been obtained in advance as provided in this Chapter.
- (b) **Exemptions from Permit Requirement.** A permit is not required for assembling or movement of a funeral procession or military convoy. Any parade, etc., sponsored by any

agency of the federal or state government, acting in its governmental capacity within the scope of its authority, shall be required to obtain a permit, however shall be exempt from the parade permit fee and insurance requirements contained herein.

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

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

- (j) **Fee.** There shall be paid at the time of filing the application for a usage permit a fee of per Section 1-3-1. The fee may be waived at the discretion of the Village Board.
- (k) **Charge for Increased Costs.** Where the Village Administrator determines that the cost of municipal services incident to the staging of the usage will be increased because of the usage, the Village Administrator may require the permittee to make an additional payment into the general fund of the Village in an amount equal to the increased costs.
- (l) **Emergency Revocation.** The Village President, Village Administrator or a law enforcement officer may revoke a permit already issued if the official deems that such action is justified by an actual or potential emergency due to weather, fire, riot, other catastrophe or likelihood of a breach of the peace or by a major change in the conditions forming the basis of the standards of issuance. In lieu of revoking a permit, an above-named official may require the permittee to file evidence of good and sufficient sureties, insurance in force or other evidence of adequate financial responsibility, running to the Village of Rio and such third parties as may be injured or damaged, in a amount depending upon the likelihood of injury or damage as a direct and proximate result of the holding of the usage sufficient to indemnify the municipality and such third parties as may be injured or damaged thereby, caused by the permittee, its agents or participants.
- (m) **Usage Permit Contents.** Each usage permit shall state such information or conditions as the Village Board or Village Administrator shall find necessary to the enforcement of this Chapter.
- (n) **Copies of Usage Permit Distributed.** Immediately upon the issuance of a usage permit, the Village Administrator shall send a copy thereof to the following:
  - (1) Each public transportation utility whose regular service will be affected by the usage.
  - (2) Public Works Department, Fire Chief, EMS Chief and law enforcement authorities.
- (o) **Compliance With Regulations.**
  - (1) **Permittee.** A permittee under this Chapter shall comply with all permit directions and conditions and with all applicable laws, ordinances and other regulations of the state and Village of Rio.
  - (2) **Participants.** No person who leads or participates in any usage shall disobey or encourage others to disobey this Section after a law enforcement officer has directly and presently informed him or her of any of the provisions of this Section or the terms of the applicable usage permit.
- (p) **Insurance Required.** Prior to issuance of the permit, the Village Board or Village Administrator may require each permittee to furnish evidence of a liability insurance policy in amounts of not less than One Hundred Thousand Dollars (\$100,000.00) for one (1) person and Five Hundred Thousand Dollars (\$500,000.00) for any one (1) accident and shall be in force and effect at the time such usage is to take place. Said evidence of insurance shall include a certificate of insurance naming the Village of Rio as an additional named insured in connection with said usage.



## Title 7 ► Chapter 14

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# Regulation and Licensing of Amusement Arcades and Amusement Devices

<b>7-14-1</b>	Definitions
<b>7-14-2</b>	Amusement Arcade License
<b>7-14-3</b>	Hours of Operation for Amusement Arcades
<b>7-14-4</b>	General Requirements for Amusement Arcades
<b>7-14-5</b>	Amusement Device License
<b>7-14-6</b>	License Revocation

### Sec. 7-14-1 Definitions.

The following definitions shall be applicable in this Chapter:

(a) **Amusement Arcade.**

- (1) Any premises operated by any organization, whether incorporated or not, which is the owner, lessee, or occupant of a building whose primary purpose or object of its existence or operation is that of providing use of "amusement devices" to the public at retail, and/or any premises operated by any organization, whether incorporated or not, which is the owner, lessee or occupant of a building, the majority of whose gross receipts are derived from the providing of use of "amusement devices" to the public at retail.
- (2) A minor arcade has between four (4) and nine (9) amusement devices.
- (3) A major arcade has over nine (9) amusement devices.

(b) **Amusement Device.** Any table, platform, mechanical device, or apparatus operated or intended to be operated for amusement, pleasure, test of skill, competition, or sport, the use or operation of which is conditioned upon payment or consideration either by insertion of coin or token in a slot or otherwise. Such amusement device shall include, but not be limited to, devices commonly known as baseball, football, basketball, hockey, pinball, jukebox, dart board, video poker game, shuffleboard, ray guns, bowling games, bumper games, skiball, electronic video games, and shall also include billiard tables and pool tables (whether coin operated or not). Such definition does not include a bowling alley or other coin operated music machine or a mechanical children's amusement riding device.

## **Sec. 7-14-2 Amusement Arcade License.**

- (a) **License Required.** No person, firm, or corporation shall operate or keep an amusement arcade, as defined herein, without having obtained and posted on the premises, in plain view, a minor or major arcade license to operate such parlor. Application shall be made to the Village Administrator on the form provided by such office, accompanied by an application fee as prescribed in Section 1-3-1, which shall cover the cost of processing the application and shall be non-refundable. The application shall set forth the following information:
- (1) The name and address of the applicant, or, if a partnership, the name and addresses of all the partners, or, if a corporation, the names and addresses of the principal officers and registered agent thereof, and the name and address of the person who will supervise the game room.
  - (2) The name and addresses of the owners of the amusement devices to be located on the licensed premises, if such owners are different from that of the applicant. If the owners of the amusement devices is a partnership, the names and addresses of all the partners, or if a corporation, the names and addresses of the principal officers and registered agent thereof.
  - (3) A building plan of the premises to be licensed specifically describing and otherwise showing all dimensions, indicating the intended division of floor space, exits and entrances, the areas to be used for amusement devices, and the common aisles.
  - (4) A site plan of the premises to be licensed which shall include the proposed landscaping for the subject premises, and all the improvements, parking and driveway areas, and landscaping located on property adjacent to and within twenty (20) feet of the property lines of the premises to be licensed.
  - (5) If the applicant operates other game rooms in other areas, the names and addresses of such other licensed establishments.
  - (6) Such application shall also contain such additional information as officials of the Village of Rio deem necessary to assist it in determining the qualifications of the applicant for such license.
- (b) **Public Hearing.** The application shall be forwarded to the Village Board which shall hold a public hearing prior to the granting or denial of any amusement arcade license. In reviewing each application, the Village Board shall find:
- (1) That the establishment, maintenance, or operation of an amusement arcade at the location requested will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.
  - (2) That the proposed amusement arcade will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
  - (3) That the establishment of the amusement arcade will not impede the normal orderly development and improvement of the surrounding property for uses permitted in the district.

- (4) That adequate measures have been or will be taken to maintain good order surrounding the location thereof.
- (c) **Issuance of License; Term.** The Village Administrator shall issue a license upon approval of the application by the Village Board, upon the payment by the applicant of an annual license fee of as prescribed in Section 1-3-1. All licenses issued herein shall be for one (1) year ending on the 30th day of June and shall not be transferable.

### **Sec. 7-14-3 Hours of Operation for Amusement Arcades.**

- (a) **Business Hours.** No premises for which an amusement arcade license has been issued shall be permitted to remain open for the offering of electronic amusement devices to the public at retail between the hours of 10:00 p.m. and 10:00 a.m., except on Friday and Saturday when the closing hours shall be between 12:00 midnight and 10:00 a.m.
- (b) **School Zone Business Hours.**
  - (1) No premises for which an amusement arcade license has been issued and which is less than one thousand (1,000) feet from the main entrance of any established public or parochial school, shall be permitted to remain open for the offering of amusement devices to the public at retail between the hours of 10:00 p.m. and 3:00 p.m. on any day in which such school is in regular session.
  - (2) For the purpose of this Section, the term "public school or parochial school" shall be any institution providing learning facilities for grades kindergarten through eight (K-8). The one thousand (1,000) foot distance shall be measured by the shortest route along the highway from the closest point of the main entrance of such school to the main entrance of such premises.

### **Sec. 7-14-4 General Requirements for Amusement Arcades.**

The following general requirements shall apply to all amusement arcades licensed in accordance with this Chapter:

- (a) **Adult Supervision.** All amusement arcades shall have an adult supervisor on the premises at all times in which the game room is open to the public.
- (b) **Bicycle Racks.** Every amusement arcade shall provide an adequate area and number of bicycle racks for the orderly parking of bicycles, which area shall be separate from a required vehicle parking stall and shall be so located as to not occupy any portion of a public sidewalk or to otherwise obstruct pedestrian passage to and from the premises.
- (c) **Compliance with Other Regulations.** Game rooms licensed herein shall comply with all other building, fire code, and applicable Village laws and regulations.

## **Sec. 7-14-5 Amusement Device License.**

- (a) **License Required.** No person, firm or corporation in the Village of Rio shall, in any manner, directly or indirectly, upon any premises, or by any device offer the use of to the public, sell, exchange, barter, dispose of or give away, or keep for sale, any vending machine, juke box, or amusement device without first obtaining a license as hereinafter provided.
- (b) **Application for License; Fee.** Every person, firm or corporation desiring a license under this Section shall file with the Village Administrator an application therefor, stating the name of the person, a list of each vending machine, juke box or amusement device and the place for which such license is desired. Each license application is to be reviewed and approved by the Village Administrator and such license shall name the licensee, a list of each amusement device and the place wherein he/she is authorized to conduct such business. Such license shall not be issued until the applicant has paid requisite fee(s) per Section 1-3-1.
- (c) **Issuance and Term of License.** Licenses for the use, sale, exchange, barter, disposition of, or giving away or keeping for sale, any vending machine, juke box or amusement device shall be issued by the Village Administrator. Each license shall be issued on the first day of July in each year, or thereafter whenever applied for, and shall continue in force from the date of issuance until the succeeding June 30th unless sooner revoked for any violation of this Section.

## **Sec. 7-14-6 License Revocation.**

Licenses may be revoked by the Village Board after a hearing, in the event an amusement arcade's location or operation fails to conform to standards provided in this Chapter, or violates any other provision of this Code of Ordinances. The Police Department may issue a recommended course of action with such matters.

## Title 7 ► Chapter 15

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# Tattooing and Body Piercing

<b>7-15-1</b>	Applicability
<b>7-15-2</b>	Definitions
<b>7-15-3</b>	Administration
<b>7-15-4</b>	Tattooing, Body Piercing — Permit Required
<b>7-15-5</b>	Health and Sanitary Requirements
<b>7-15-6</b>	Temporary Facility or Temporary Combined Facility
<b>7-15-7</b>	Record Retention
<b>7-15-8</b>	Appeals
<b>7-15-9</b>	Regulations, Rules and Laws Adopted by Reference

### **Sec. 7-15-1    Applicability.**

The provisions of this Chapter shall apply to tattoo and body piercing facilities, tattoo artists and body piercers, and the practice of tattooing and body piercing.

### **Sec. 7-15-2    Definitions.**

The following definitions shall be applicable in this Chapter, unless otherwise specifically indicated:

- (a) **Health Authorities.** County or state agencies/officials having regulatory and inspection responsibilities and authority regarding health matters associated with tattooing and body piercing practices and facilities. Village-designated inspectors, law enforcement authorities, or the Building Inspector may perform some of these functions if so directed by the health authorities.
- (b) **Sterilize.** Submission to the steam pressure (autoclave) method with at least fifteen (15) pounds of pressure per square inch at two hundred fifty (250) degrees Fahrenheit for at least thirty (30) minutes, such that all forms of microbial life, including spores, viruses, bacteria and fungi, are destroyed.
- (c) **Tattoo Artist.** Any person engaged in the practice of tattooing.
- (d) **Tattoo Facility.** The location where tattooing is practiced.
- (e) **Tattooing.** Means and includes any method of placing or removing designs, letters, scrolls, figures, symbols, or any other marks upon or under the skin of a person with ink or color by the aid of needles or instruments.

- (f) **Temporary Facility.** A single building, structure, area or location where a tattoo artist or body piercer performs tattooing or body piercing for a maximum of seven (7) days per event.
- (g) **Body Piercer.** A person who performs body piercing on another person at that person's request.
- (h) **Body Piercing.** Perforating any human body part or tissue, except an ear, and placing a foreign object in the perforation to prevent the perforation from closing.
- (i) **Body Piercing Facility.** The premises where a body piercer performs body piercing.
- (j) **Temporary Combined Facility.** A single building, structure, area, or location where both tattooing and body piercing are performed for a maximum of seven (7) days per event.

### **Sec. 7-15-3 Administration.**

The provisions of this Chapter shall be administered by or under the direction of the Village Administrator, in consultation with health authorities and law enforcement authorities, who in person or by duly authorized representative, shall have the right to enter, at reasonable hours, upon premises affected by this Chapter, to inspect the premises, examine and copy relevant documents and records, or obtain photographic or other evidence needed to enforce the provisions of this Chapter.

### **Sec. 7-15-4 Tattooing, Body Piercing — Permit Required.**

- (a) **Permit Required.** No person shall engage in the practice of tattooing or body piercing or shall carry on the business of operating a tattoo or body piercing facility or a combined tattoo and body piercing facility within the Village of Rio unless he/she has a valid permit issued by the Village Administrator for each and every such place of business.
- (b) **Application.** Application for permits shall be made in writing to the Village Administrator, stating the name and address of the applicant and the name and address of the proposed tattoo or body piercing facility or a combined tattoo and body piercing facility, together with such other information as may be required.
- (c) **Fee.** An annual fee shall accompany the permit application as follows:
  - (1) Tattoo or body piercing facility permit: Per Section 1-3-1.
  - (2) Tattoo artist permit: Per Section 1-3-1.
  - (3) Temporary facility or temporary combined facility permit: Per Section 1-3-1.
  - (4) Body piercer permit: Per Section 1-3-1.
  - (5) Combined tattoo and body piercing facility permit: Per Section 1-3-1.
  - (6) Inspection of new facility: Per Section 1-3-1.
- (d) **Permit.** Permits shall be posted in a conspicuous place in the tattoo or body piercing facility. Permits are not transferable and, except for temporary tattoo or body piercing facility permits, shall expire on June 30 following their issuance.

- (1) ***Tattoo or Body Piercing Facility Permit.*** A separate permit is required for each tattoo or body piercing facility. A permit shall not be transferable to a location other than the one for which it was issued. Such permits shall expire on June 30 following their issuance, unless they are issued between April 1 and June 30, in which case they shall expire on June 30 of the following year.
- (2) ***Tattoo Artist or Body Piercer Permit.*** A separate permit is required for each tattoo artist or body piercer engaged in the practice of tattooing or body piercing. Such permits shall expire on June 30 following their issuance, unless they are issued between April 1 and June 30, in which case they shall expire on June 30 of the following year.
- (3) ***Temporary facility or temporary combined facility permit.*** A separate permit is required for each temporary facility or temporary combined facility. Such permit is not transferrable to a location other than the one for which it was issued and shall expire seven days after the date it was issued.
- (e) **Permit Suspension and Revocation.** Such permit may be temporarily suspended by Village-designated authorities, law enforcement authorities, the Building Inspector or health authorities for violations that present an immediate health hazard or may be revoked after repeated violations of this Chapter. Any person affected by such suspension or revocation shall have the right to appeal pursuant to Section 7-15-8.

## **Sec. 7-15-5 Health and Sanitary Requirements.**

- (a) **Premises.**
  - (1) Floor surfaces in the room in which the tattoo or body piercing is administered shall be impervious, smooth and washable. Carpeting is not allowed.
  - (2) A handwashing facility supplied with hot and cold water under pressure, soap, and single-service towels shall be conveniently located in the tattoo or body piercing area, in addition to what is provided in the toilet room.
  - (3) Approved waste containers with non-absorbent, durable plastic liners shall be used for all tissues, towels, gauze pads and other similar items used on the client. Any infectious waste shall be disposed of as required by Ch. NR 526, Wis. Adm. Code.
  - (4) Adequate cabinets with washable surfaces shall be provided for exclusive storage of instruments, dyes, pigments, stencils, and other equipment used in the practice of tattooing or body piercing.
  - (5) All tattoo or body piercing facilities shall be maintained in a clean, sanitary condition and in good repair.
  - (6) The tattoo or body piercing facility application area where the procedure is performed shall be adequately lighted to a minimum of fifty (50) foot candles.
  - (7) Tattooing or body piercing shall be performed by a tattoo artist or body piercer in a tattoo or body piercing facility completely separated from any living quarters by a

solid permanent partition. A solid door leading to the living quarters is permitted, provided it remains closed during business hours. A direct outside entrance to the tattoo or body piercing facility shall be provided.

(b) **Equipment.**

- (1) **Autoclaves.** All tattoo or body piercing facilities shall be equipped with an autoclave which is in good working order and which is manufactured with temperature and pressure gauges marked and visible on the outside of the unit:
  - a. As an alternative to requiring a pressure gauge, spore strips or suspensions shall be used at least weekly and results recorded for performance checks of the autoclave.
  - b. A record must be maintained for each sterilization cycle, including date, sterilizing temperature, length of time at sterilizing temperature, and what was autoclaved.
  - c. A minimum of one time sterile indicator tape shall be included with each load sterilized and the results recorded and the autoclave shall be spore tested at least monthly. Spore kill effectiveness testing shall be conducted by an independent laboratory.
  - d. The autoclave shall be of sufficient size and shall be operated in accordance with manufacturer's recommendations and in a manner to prevent crowding of the chamber.
  - e. The autoclave chamber temperature shall be checked at least weekly with a maximum registering thermometer and results recorded.
- (2) **Sterilized Instruments.** All instruments used in the practice of tattooing or body piercing shall be sterilized before use:
  - a. All instruments shall be thoroughly cleaned before being sterilized. This may be done with an ultrasonic cleaner or with a probe, needles, or brush able to enter the smallest opening of the instrument. The cleaning of instruments shall be done with detergent and hot water or other methods approved by health authorities.
  - b. All instruments used in the tattoo or body piercing procedure shall be stored in a clean, dry manner after sterilization and handled in a way that will prevent recontamination.
- (3) **Needles.** Needles shall be disposable, sterile, single-patron use.
- (4) **Stencils.**
  - a. Plastic stencils shall be thoroughly cleaned with soap and water and sanitized after each use. They are to be sanitized by immersion for thirty (30) minutes in a chlorine disinfectant solution prepared by mixing one (1) tablespoon of household bleach containing five percent (5%) chlorine with one (1) pint of water and allowed to air dry.
  - b. Prior to use, each pre-cleaned and sanitized plastic stencil shall be rinsed in a seventy percent (70%) isopropyl alcohol solution and allowed to air dry.



- c. Paper stencils shall only be used once. New paper stencils shall be used for every individual.
- (5) **Dyes and Inks.**
  - a. The licensee shall submit in writing to the health authorities the source of all dyes and inks used in administering tattoos.
  - b. Non-toxic dyes or inks shall be taken only from effectively covered squeeze bottle containers that are easy to clean and disinfect.
  - c. Immediately before applying a tattoo; the dye to be used for the tattoo shall be squeezed from the dye bottles into disposable cups. The disposable cups shall be stored and handled in a manner to prevent them from becoming contaminated. Upon completion of the tattoo, the cups and dye shall be discarded. Any dye in which the needles were dipped shall not be used on another person.
- (c) **Skin Preparation.**
  - (1) **Aseptic Technique.** Aseptic technique must be utilized in the practice of tattooing or body piercing:
    - a. Each tattoo artist or body piercer is required to scrub his/her hands with liquid soap (i.e., tincture of green soap) and water thoroughly before commencing tattooing or body piercing on the client.
    - b. If the client's skin is to be shaved, the skin shall be washed with a cleansing antiseptic/antimicrobial skin cleaner before shaving. A safety razor shall be used. A new blade shall be used for each client. The blade shall be discarded after each use. Reusable blade holders shall be sterilized after each use. If disposable blade holders are used, they may be used on one client only and then must be discarded.
    - c. The skin area to be tattooed or body pierced shall first be cleansed with soap and water and then prepared with antiseptic such as seventy percent (70%) alcohol (and allowed to air dry) or other method approved by the health authorities.
    - d. Single-use gauze pads or towels shall be used in the skin cleaning and preparation.
    - e. Petroleum jelly applied on the tattoo area shall be dispensed from a single-use disposable container or with a sterile tongue blade or sterile applicator stick which shall be discarded after each use.
  - (2) **Antibacterial Ointments.** After the tattooing or body piercing is completed, only antibacterial ointments shall be applied on the tattoo or body piercing, and if a dressing is to be used, it must be a sterile, non-sticking dressing.
  - (3) **Instructions.** Persons tattooed or body pierced shall be provided with printed instructions regarding tattoo or body pierce care during the healing process.
- (d) **General Supplies.**
  - (1) All tattoo or body piercing facilities shall have clean, laundered towels, washcloths or disposable paper towels in sufficient quantity for the sanitary operation of the practice of tattooing or body piercing.

- (2) A clean towel and washcloth shall be used for each client.
- (3) Clean towels and washcloths shall be stored in a closed, dustproof container.
- (4) Soiled towels and washcloths shall be stored in an approved covered container.
- (5) All tattoo artists or body piercers shall wear clean, washable garments.
- (6) The operating table, chair, and supply tables shall be constructed of a material capable of being easily and thoroughly cleaned and disinfected.

(e) **Tattoo Artist and Body Piercer Requirements.**

- (1) The tattoo artist or body piercer shall be free of infectious or contagious disease that may be transmitted by the practice of tattooing or body piercing.
- (2) Tattoo artists or body piercers with open sores or skin infections on the hand or hands shall not be permitted to engage in the practice of tattooing or body piercing. The tattoo artist or body piercer shall wear single-use disposable latex or vinyl gloves during tattooing or body piercing.
- (3) Smoking or consumption of food or drink shall not be allowed in the immediate vicinity where the tattoo or body piercing procedure is being performed.
- (4) The tattoo artist or body piercer shall wash his/her hands thoroughly with liquid soap and water before any skin preparation, tattooing, or body piercing and after removing gloves. The hands shall be dried with individual single-service towels.
- (5) No person shall be present in the immediate vicinity of the area in which tattoos or body piercing are administered unless authorized by the tattoo artist or body piercer.
- (6) No animals, except guide dogs, are allowed in the tattoo or body piercing facility.
- (7) The work areas, such as counter tops, must be cleaned and wiped with a disinfectant between clients.
- (8) Physical examination of tattoo artists or body piercers may be required. Health authorities shall have the power to require any tattoo artist or body piercer to submit to a practicing physician for a physical examination whenever the tattoo artist or body piercer is reasonably suspected of having any infectious or contagious disease that may be transmitted by the practice of tattooing or body piercing. The expense of the physical examination shall be the responsibility of the tattoo artist or body piercer. All medical records shall remain confidential, except as otherwise provided by law. Failure to obtain the required physical examination shall result in suspension or revocation of the tattoo artist or body piercing permit.

(f) **Clients.**

- (1) Inquiry shall be made and no tattooing or body piercing shall be performed on any person who is suspected of having jaundice or hepatitis or who has recovered from jaundice or hepatitis within the preceding six (6) months.
- (2) Tattooing or body piercing shall not be performed on any person in an area with an evident skin infection or other skin disease or condition, including, but not limited to, rashes, pimples, boils or infections.

## **Sec. 7-15-6 Temporary Facility or Temporary Combined Facility.**

The requirements contained in this Chapter shall apply to temporary facilities and temporary combined facilities, except where superseded by the following:

**(a) Permit.**

- (1) No temporary facility or temporary combined facility may be operated before being granted a permit by the Village Administrator.
- (2) No permit may be issued without prior inspection.
- (3) The permit issued by the Village Administrator shall be conspicuously displayed in the temporary facility or temporary combined facility.
- (4) A tattoo artist or body piercer operating a temporary facility or combined temporary facility, found to be an habitual violator of this Chapter by the Village Administrator, may be denied a permit to operate or may have the permit revoked.

**(b) Premises.**

- (1) Floors shall be maintained in a sanitary condition. Dirt floors shall be covered by an approved material which will provide protection from dust.
- (2) a. When water is available under pressure, handwashing facilities with approved liquid waste disposal shall be reasonably accessible to the tattoo artist or body piercer.  
b. When water is not available under pressure, a minimum of two (2) basins or a two (2) compartment basin shall be provided.
- (3) Water in sufficient quantity shall be hauled and stored in containers that are easily cleanable, provided with tight-fitting covers, and maintained in a clean and sanitary condition.
- (4) Liquid soap and single-service towels for handwashing and drying hands shall be provided.

- (c) Equipment.** If an approved autoclave/sterilizer is not provided, only pre-sterilized instruments that are prewrapped with time sterile indicator tape attached and stored in a clean, dry manner may be used in the practice of tattooing or body piercing.

## **Sec. 7-15-7 Record Retention.**

Records shall be kept by each permittee of all tattoos and body piercings administered, including the name of the client, date, general identification of the tattoo or body piercing, and tattoo artist's or body piercer's name. Records shall be kept on the premises of the tattoo or body piercing facility where tattoos or body piercings are administered. These records shall be available for inspection for a period of two (2) years after the date the tattoo or body piercing is completed.

### **Sec. 7-15-8 Appeals.**

Appeals from orders or permit denials under this Chapter shall be in conformance with the procedures for conducting appeals enumerated in Sec. 68, Wis. Stats., codified in Title 4 of this Code of Ordinances. An appeal does not eliminate the Village's right to seek court intervention in the form of injunctive or other relief.

### **Sec. 7-15-9 Regulations, Rules and Laws Adopted by Reference.**

The applicable regulations, rules and laws set forth in Secs. 252.23, 252.24 and 252.245, Wis. Stats., and HFS 173, Wis. Adm. Code, are incorporated in this Chapter by reference and they shall be construed, read and interpreted as though fully set forth herein. The express provisions of this Chapter shall control where more restrictive.

*State Law Reference:* Secs. 252.23, 252.24 and 252.245, Wis. Stats.; HFS 173 and NR 526, Wis. Adm. Code.

## Title 7 ► Chapter 16

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# Licensees to Pay Local Claims; Appellate Procedures

<b>7-16-1</b>	Licensees Required to Pay Local Taxes, Assessments and Claims; Appellate Procedures
<b>7-16-2</b>	Issuance of Licenses
<b>7-16-3</b>	Criminal History Record Information Searches

### **Sec. 7-16-1 Licensees Required to Pay Local Taxes, Assessments and Claims.**

- (a) **Nonpayment of Taxes or Forfeitures.** The Village shall not issue or renew any license to transact any business within the Village of Rio:
  - (1) For any purposes for which taxes, assessments, unpaid utility bills, or other claims of the Village of Rio are delinquent and unpaid.
  - (2) For any person who is delinquent in payment:
    - a. Of any taxes, assessments or other claims owed the Village of Rio; or
    - b. Of any forfeiture resulting from a violation of any Village ordinance.
- (b) **Applicability.** This Section shall apply to licenses issued pursuant to the provisions of Title 7 of this Code of Ordinances, except Chapter 1.
- (c) **Denial of Renewal.** An application for renewal of a license subject to this Chapter shall be denied pursuant to the provisions of Subsection (a) only following notice and opportunity for hearing as provided by Subsection (d) below.
- (d) **Hearing.** Prior to any denial of an application for renewal of a license, including denials pursuant to Subsection (a), the applicant shall be given notice and opportunity for a hearing as hereinafter provided:
  - (1) With respect to licenses renewable under Chapter 2 of Title 7 of this Code of Ordinances, notice and opportunity for hearing shall be as provided by that Chapter and Sec. 125.12, Wis. Stats., as amended from time to time.
  - (2) With respect to licenses other than those described in Subsection (a) herein, the Village Board or its assignee shall notify the applicant in writing of the Village's intention not to renew the license and shall provide the applicant with an opportunity

for hearing. The notice shall state the reasons for the intended action and shall establish a date, not less than three (3) days nor more than ten (10) days after the date of the notice on which the applicant shall appear before the Village Board. If the applicant shall fail to appear before the Village Board on the date indicated on the notice, the Village Board shall deny the application for renewal. If the applicant appears before the Village Board on the date indicated in the notice and denies that the reasons for nonrenewal exist, the Village Board shall conduct a hearing with respect to the matter. At the hearing, both the Village and the applicant may produce witnesses, cross examine witnesses and be represented by counsel. The applicant shall, upon request, be provided a written transcript of the hearing at the applicant's expense. If the Village Board determines the applicant shall not be entitled to renewal pursuant to Subsection (a), the application for renewal shall be denied.

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

*State Law Reference:* Sec. 66.0115, Wis. Stats.

## **Sec. 7-16-2 Issuance of Licenses.**

- (a) **Application.** Applications for licenses under this Title shall be made to the Village Administrator. Such application shall contain such information as may be required by the pertinent provisions of Title 7 or as may be otherwise required by the Village Administrator.
- (b) **Payment of License Fee.** License fees imposed per Section 1-3-1 under this Title shall accompany the license application. If a license is granted, the Village Administrator shall issue the applicant a receipt for his/her license fee.
- (c) **Refund of License Fee.** No fee paid shall be refunded unless the license is denied.
- (d) **Terms of Licenses.** Unless specified differently in the pertinent Chapter of Title 7, all licenses issued hereunder shall expire on June 30, in the year of issuance unless issued for a shorter term, when they shall expire on midnight of the last effective day of the license, or unless otherwise provided by these ordinances or State laws.
- (e) **Form of License.** All licenses issued hereunder shall show the date of issue, the activity licensed, and the term of the license, and shall be signed by the Village Administrator.
- (f) **Record of Licenses.** The Village Administrator shall keep a record of all licenses issued.

- (g) **Display of Licenses.** All licenses hereunder shall be displayed upon the premises or vehicle for which issued, or if carried on the person shall be displayed to any officer of the Village upon request.
- (h) **Compliance With Ordinances Required.** It shall be a condition of holding a license under this Title 7 that the licensee comply with all ordinances of the Village of Rio. Failure to do so shall be cause for revocation of the license.
- (i) **Transfer of Licenses.** All licenses issued hereunder shall be personal to whom issued and shall not be transferred except with the consent of the Village Board.
- (j) **Consent to Inspection.** An applicant for a license under this Chapter thereby consents to the entry of police or authorized representatives of the Village of Rio upon licensed premises at all reasonable hours for the purposes of inspection and search, and consents to removal from the premises and introduction into evidence in prosecutions for violations of this Title 7 all things found therein in violation of this Chapter or State law.

### **Sec. 7-16-3 Criminal History Record Information Searches.**

- (a) **General Provisions; Purpose.**
  - (1) **Purpose.** This Section is adopted for the purpose of providing the Village of Rio and law enforcement agencies serving the Village and its representatives with the authority to request criminal history record information from the State of Wisconsin or the federal government when required by ordinance or if requested by the Village Administrator, Police Department or a Village department head.
  - (2) **State Requirements.** The Village of Rio is a municipal corporation which provides government services to its citizens and the general public, and in order to efficiently provide services, it is necessary to conduct criminal history record searches concerning certain persons. This Section is enacted in order to comply with any applicable State of Wisconsin requirement that a municipality that requests that the state provide them with criminal history record information concerning an individual under certain circumstances have an ordinance, resolution or department policy enacted authorizing such requests.
- (b) **Authority.** If required by ordinance or if requested by the Village Administrator, a Village department head, or law enforcement agencies serving the Village of Rio shall conduct a criminal history records information search concerning the following persons:
  - (1) Alcohol license and permit applicants.
  - (2) Transient merchant license applicants.
  - (3) Applicants for Village employment.
  - (4) Firefighter applicants when requested by the Fire Chief.
  - (5) Rescue squad applicants when requested by the Emergency Medical Service.
  - (6) Hunting permit applicants.

- (7) Ride-along participants.
  - (8) Applicants for all other licenses and permits which may be issued by the Village of Rio.
  - (9) An officer or partner of any corporate or partnership applicant for licenses or permits from the Village Administrator.
  - (10) Any other person for whom a department head or the Village Administrator, or his/her designee, requests criminal history information due to interaction with municipal services. A request under this Subsection must be based on a reasonable belief that the criminal history information is necessary to assist in the safe and efficient operation of local government and/or to safeguard the public health and safety.
- (c) **Fees.** The cost of the criminal history record information search shall be paid as provided by ordinance, or if not specifically specified in an ordinance, as directed by the Village Administrator or Chief of Police.