

**CHAPTER 7**

**BUSINESS CODE**

**ARTICLE I - ADMINISTRATION**

**7-1-1**        **DEFINITIONS.**    When used in this Chapter, unless the found text indicates otherwise:

    The term "business" means employment, occupation, profession, or commercial activity engaged in for gain, benefit or livelihood.

    The term "person" means any person, firm, association, partnership or corporation.

    The term "clerk" means the Village Clerk for the Village of Hamel, Illinois.

    The term "board" means the Board of Trustees for the Village of Hamel, Illinois.

    The term "Mayor" means the President of the Village of Hamel, Illinois.

**7-1-2**        **APPLICATION.**    It shall be unlawful for any person to conduct any business within the Village limits without first obtaining a license to conduct such business from the Mayor and Clerk. Every person who desires to obtain a license to operate a business shall apply therefore to the Mayor, in writing, and addressed to the Village Hall, Hamel, Illinois 62046. All such applications must be accompanied by a non-refundable permit fee of **Twenty Dollars (\$20.00)** and shall detail the nature of the business activity. **(Ord. No. 12-01; 02-14-12)**

**7-1-3**        **LICENSES; FEES.**    It shall be the duty of the Mayor and s/he shall have power, jurisdiction and authority to issue licenses to all businesses, and to refuse to issue licenses whenever, after due investigation, the Mayor finds that the character of the applicant makes the applicant unfit to be operating a business within the Village of Hamel, or when the premises proposed to be used for the conducting of the business is found, upon investigation, to be unfit for such use. Any such license granted by the Mayor may also be revoked or suspended by him upon due notice to the holder of said license and upon due cause shown and a hearing thereon. Failure to comply with the duties, terms, rules, conditions or provisions required by any law of this Village or the State of Illinois or any other law of any other local government, shall be deemed cause to revoke or suspend such license. Anyone who conducts any business without first procuring such a license or without paying the fees required by this Chapter, shall be guilty of a Class B misdemeanor.

    The fees for a general business license, which shall include any and every business which is not otherwise specifically delineated below, shall be **Twenty-Five Dollars (\$25.00)** annually. Licenses issued shall be for the period of not more than **twelve (12) months**. Businesses wishing to use and have placed in their establishment a video or pinball game machine shall have to apply for an endorsement to the general business license and the fee for such endorsement shall be **Twenty Dollars (\$20.00)** in addition to the general business license, this making the total business license fee for such a person/business to be **Forty-Five Dollars (\$45.00)**. **(Ord. No. 12-01; 02-14-12)**

    Any person who operates under a general business license and who desires to have a jukebox in their establishment must apply for a jukebox endorsement to the general business which such endorsement shall have an additional fee of **Twenty Dollars (\$20.00)** to the general business license fee. **(See Section 21-2-6 for liquor license fees.)**

In addition to the general business license fee, any person wishing to operate a retail dram shop, or any person who possesses a liquor license pursuant to the Village Ordinance must apply for a retail dram shop endorsement, and the fee for such endorsement shall be as follows: for a Class A license **Three Hundred Fifty Dollars (\$350.00)** annually, for a Class B license **Three Hundred Dollars (\$300.00)** annually, for a Class C license **Three Hundred Dollars (\$300.00)** annually, for a Class D license **Three Hundred Dollars (\$300.00)** annually, for a Class E license **Three Hundred Dollars (\$300.00)** annually, for a Class F license **Three Hundred Dollars (\$300.00)** annually, for a Class G license **Three Hundred Dollars (\$300.00)** annually, for a Class H license **Twenty-Five Dollars (\$25.00)** annually and for a Class I license **Five Dollars (\$5.00)** per day.

**7-1-4 APPEAL OF DENIAL OF LICENSING.** If the Mayor shall, in his judgment find that there is good cause not to issue the license and denies the license to one who has made application for a business license, the applicant may petition for an appeal to the Board of Trustees by filing a written application for appeal with the Village Clerk within **thirty (30) days** of notification of the Mayor's decision not to issue the license.

Upon the filing of an application for appeal of the Mayor's decision to not issue a license, the Clerk shall set the matter for hearing before the Board of Trustees, in executive session at the next scheduled regular meeting of the Board. At that time the applicant may present such evidence as he deems fit to show the Mayor's decision not to issue the license was an arbitrary and capricious decision with no rational relationship to the health, welfare or safety of the community. The Mayor's decision not to issue the license may only be overturned on appeal by **two-thirds (2/3) vote** of all Village Board members.

**7-1-5 ISSUE OF LICENSE.** If the Mayor shall grant the application, he shall sign and issue the license to the applicant upon verifying that the appropriate filing and application fees have been paid to the Village Clerk. The Clerk then shall issue to the applicant the license for the purpose and for the time specified therein, provided however, that no license shall be granted or issued for any purpose for a period of time that extends beyond the end of the fiscal year in which it is granted. All licenses shall be on such forms as are prescribed, amended, and approved by the Village Board from time to time.

**7-1-6 LICENSE REGISTER.** It shall be the duty of the Village to keep a book known as the license register, in which he shall enter the number, date, period of time, to whom issued, for what purpose, amount paid, and in case of each liquor license, the particular house or place in which the business is to be carried on. This register shall be known as the business license register and shall be kept as an official record of the Village by the Clerk.

**7-1-7 LICENSE TRANSFERABILITY.** No licenses shall be assignable or transferable, nor so construed as to apply to any other building, tenement or place, than that described in such license, but the person to whom it is granted, send to the Board, to be certified there by the Village Clerk. Anyone attempting to transfer their license in violation of any of these provisions shall be considered to have violated this Act and subject to the punishments provided therefore and the license of such offender may be revoked before whom the action may be brought.

**7-1-8            REDUCTION OF FEES.** Any person beginning the operation of a business between the **thirtieth (30<sup>th</sup>) day of October** in any year, and **first (1<sup>st</sup>) day in May** of the succeeding year, shall pay **one-half (1/2)** of the regular annual license fee provided for that particular business according to the above provisions in this Chapter.

**7-1-9            NUISANCE PROHIBITED.**

**7-1-9.1        GENERALLY.** No business or establishment, whether or not licensed, shall be so conducted or operated as to constitute a nuisance in fact; and no building, vehicle, structure, yard, lot, premises, or part thereof, shall be used, kept, maintained or operated in connection with any business or establishment so as to occasion any nuisance, or so as to be dangerous to life or detrimental to health.

**7-1-9.2        UNSAFE OR UNHEALTHFUL BUSINESS.**

(A) No building or structure, utilized, constructed, or maintained in connection with any business or occupation, shall evidence an unsanitary, unsafe or dangerous condition.

(B) No substance, matter or thing of any kind whatever, which shall be dangerous or detrimental to health shall be allowed to exist in connection with any business or occupation, or be used in any work or labor performed in the Village.

**7-1-9.3        REFUSE DISPOSAL.**

(A) **Refuse Containers.** The standard refuse container required by this Code shall be a receptacle of not less than **twenty (20)** nor more than **thirty-two (32) gallons** capacity, of impervious material and sturdy construction, with a tight-fitting cover, and equipped with handles properly placed a facilitate handling.

(B) **Duty to Provide Refuse Containers.** The occupant of every building, structure, or premises used or maintained in connection with any business or occupation shall provide and maintain in good condition and repair a sufficient number of refuse containers for the temporary storage of all refuse accumulating between collections. All refuse which is placed for collection service outside any building or structure must be kept in standard refuse containers.

(C) **Refuse Removal.** It shall be the duty of the occupant of every building, structure, or premises used or maintained in connection with any business or occupation to cause to be removed at his own cost and expense at least once each week all refuse produced therein.

(D) **Removal of Restaurant Garbage.** Every person owning or controlling any hotel, restaurant, café, or retail food establishment where more than **thirty-two (32) gallons** of refuse is normally produced weekly shall cause all garbage to be placed in sanitary refuse containers and shall cause all substances deposited in such containers to be removed daily from his premises and to be disposed of at his own expense.

**7-1-10      WORKING CONDITIONS.**

**7-1-10.1      HEALTH REQUIREMENTS.** No owner, lessee, manager, or superintendent of any store, factory, workshop, or other place where persons are employed shall cause or permit such place, or any room or part thereof to be overcrowded or inadequate or faulty in respect to light, ventilation, heat or cleanliness.

**7-1-10.2      SANITATION.** All such places of employment shall be kept in a clean condition, free from effluvia of a sewer, drain, privy, stable or other nuisance, also as far as practicable, such premises shall be free from all gases, vapors, dust, or other impurities generated by manufacturing processes or otherwise which are injurious to health. Sufficient washroom facilities for male and female employees shall be provided and such facilities shall be properly ventilated.

**7-1-10.3      HEAT REQUIRED.**

(A) It shall be the duty of every person owning or controlling the heating plant which furnishes heat to any factory or workshop, to maintain a temperature within such factory or workshop or not less than **sixty-eight degrees Fahrenheit (68° F.)**, without such undue restriction of ventilation as to interfere with proper sanitary conditions therein; provided, however, that this requirement shall not apply to any factory or workshop where the business conducted therein is of such a nature that a higher or lower temperature than **sixty-eight degrees Fahrenheit (68° F.)** is necessary or expedient for the work or manufacturing processes of such business.

(B) It shall be the duty of any person owning or controlling the heating plant which furnishes heat to any office, store, or other place of employment to maintain a temperature therein of not less than **sixty-eight degrees Fahrenheit (68° F.)** without such undue restriction of ventilation as to interfere with proper sanitary conditions therein, between the hours of **eight o'clock (8:00) A.M.** and **six o'clock (6:00) P.M.**, from **October first (1st)** of each year to **June first (1st)** of the succeeding year, Sundays and legal holidays excepted.

**7-1-10.4      INSPECTION.** The Health Officer and the Building Commissioner shall visit or cause to be visited all such places of employment in the Village as often as they shall deem necessary to assure compliance with the provisions of this Section, and to have such arrangements made as may be deemed necessary for the health and safety of the employees.

**7-1-11      INSPECTIONS.**

**7-1-11      ENTRY OF PREMISES.** Whenever inspections of the premises used for or in connection with the operation of a licensed business or occupation are provided for or required by ordinance, or are reasonably necessary to assure compliance with the provisions of any ordinance or regulation of the Village, or to detect violations thereof, it shall be the duty of the licensee or the person in charge of the premises to admit thereto for the purpose of making the inspection any officer or employee of the Village who is duly authorized to make such inspection at any reasonable time that such admission or entry is requested.

**7-1-11.2 SAMPLES ANALYSIS.** Whenever an analysis of any commodity or material is reasonably necessary to assure compliance with the provisions of any ordinance or regulation, or to detect violations thereof, it shall be the duty of the licensee or the person in charge of the premises to give to any duly authorized officer or employee of the Village requesting the same, sufficient samples of such material or commodity for such analysis upon official request.

**7-1-11.3 PENALTIES.** In addition to any other penalty which may be provided, the Mayor may revoke the license of any owner or operator of a licensed business in the Village who refuses to permit any duly authorized officer or employee to make such inspection or to take an adequate sample of said commodity, or who interferes with such officer or employee while in the performance of his duties; provided, however, that no license shall be subject to revocation for such cause unless such officer or employee has been refused permission to enter upon the premises in the name of the Village after first having presented a warrant authorizing such entry.

**7-1-12 SUSPENSION, REVOCATION OF LICENSE OR PERMIT.**

**7-1-12.1 SUSPENSION.** When the conduct or operation of any business or establishment, whether or not licensed, shall constitute a nuisance in fact, and a clear and present danger to the public health, safety or general welfare, the Mayor shall be authorized to summarily order the cessation of business, the closing of the premises, and the suspension of any license or permit for a period not to exceed **ten (10) days**.

**7-1-12.2 HEARING.** Within **eight (8) days** after he has so acted, the Mayor shall call a hearing for the purpose of determining whether or not the license or permit should be revoked.

**7-1-12.3 REVOCATION.** Licenses and permits issued under the ordinances of the Village, unless otherwise provided, may be revoked by the Mayor after notice and hearing as provided in **subsections 7-1-12.1 through 7-1-12.5** of this Section for any of the following causes:

- (A) Any fraud, misrepresentation, or false statement contained in the application for the license or permit;
- (B) Any violation by the licensee or permittee of ordinance provision relating to the license or permit, the subject matter of the license or permit, or the premises occupied;
- (C) Conviction of the licensee or permittee of any felony or of a misdemeanor involving moral turpitude;
- (D) Failure of the licensee or permittee to pay any fine or penalty owing to the Village;
- (E) Refusal to permit an inspection or sampling, or any interference with a duly authorized Village officer or employee while in the performance of his duties in making such inspections as provided in **Section 7-1-11.1 - 7-1-11.2**. Such revocation, if ordered, shall not preclude prosecution and imposition of any other penalties provided for the violation of other applicable ordinances of the Village.

**7-1-12.4**     **NOTICE OF HEARING.**   Notices of the hearing for revocation of a license or permit shall be given in writing setting forth specifically the grounds of the complaint and the time and place of the hearing.  Such notice shall be sent by certified mail (return receipt requested) to the licensee or permittee at his last known address at least **five (5) days** prior to the date set for the hearing.

**7-1-12.5**     **HEARING.**   At the hearing, the Village Attorney shall present the complaint and shall represent the Village.  The licensee or permittee shall be permitted counsel and shall have the right to submit evidence and cross-examine witnesses.  The Mayor shall preside and shall render the decision.

**7-1-13**       **APPEAL.**   Any person aggrieved by the decision of the Mayor, in regard to the denial of an application for a business license, as provided in **Section 7-1-2** hereinabove, or in connection with the revocation of a license or permit, as provided in **Section 7-1-12** hereinabove, shall have the right to appeal to the Village Board.  Such appeal shall be taken by filing with the Village Clerk within **ten (10) days** after notice of a denial of an application or a revocation of a license or permit, a written statement under oath setting forth specifically the grounds for appeal.  The Village Board shall thereupon set the time and place for a hearing on such appeal and notice of such hearing shall be given to the applicant or licensee or permittee in the same manner as provided in **Section 7-1-12.4** hereof.  The decision of the Village Board on such appeal shall be final.

**7-1-14**       **LICENSE TO BE POSTED.**   It shall be the duty of every person conducting a licensed business in the Village to keep his license posted in a prominent place on the premises used for such business at all times.

**7-1-15**       **BUSINESS VEHICLE STICKER.**   Whenever the number of vehicles used is the basis, in whole or in part, for a license fee, the Village Clerk shall furnish the licensee with a tag or sticker for each vehicle covered by the license and such tag or sticker shall be posted or affixed in a conspicuous place on each such vehicle.

**ARTICLE II – SOLICITORS**

**7-2-1**        **DEFINITIONS.** For the purpose of this Chapter, the following words as used herein shall be construed to have the meaning herein ascribed thereto, to-wit:

**"Registered Solicitor"** shall mean and include any person who has obtained a valid Certificate of Registration as hereinafter provided, and which Certificate is in the possession of the solicitor on his or her person while engaged in soliciting.

**"Residence"** shall mean and include every separate living unit occupied for residential purposes by **one (1)** or more persons, contained within any type of building or structure.

**"Soliciting"** shall mean and include any one (1) or more of the following activities:

(A)            Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services of any kind, character or description whatever, for any kind of consideration whatever, or;

(B)            Seeking to obtain prospective customers for application or purchase of insurance of any type, kind, or character, or;

(C)            Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication, or;

(D)            Seeking to obtain gifts or contributions of money, clothing or any other valuable thing for the support or benefit of any charitable or non-profit association, organization, corporation or project.

**7-2-2**        **CERTIFICATION OF REGISTRATION.** Every person desiring to engage in soliciting as herein defined from persons in residences within this Village, is hereby required to make written application for a Certificate of Registration as hereinafter provided.

**7-2-3**        **CHARITABLE INSTITUTIONS.** All resident charitable organizations in the Village which have been in existence for **six (6) months** or longer shall register all solicitations and shall be exempt from registration thereafter.

**7-2-4**        **APPLICATION FOR CERTIFICATE OF REGISTRATION.** Application for a Certificate of Registration shall be made upon a form provided by the Village Clerk and filed with the Clerk. The applicant shall truthfully state in full the information requested on the application, to-wit: **(Ord. No. 14-05; 05-13-14)**

(A)            Name and address of present place of residence and length of residence at such address; also business address if other than residence address; also Social Security Number.

(B)            Address of place of residence during the past **three (3) years**, if other than present address.

(C)            Age of applicant and marital status; and if married, the name of spouse.

(D)            Physical description of the applicant.

(E)            Name and address of the person, firm or corporation or association by whom the applicant is employed or represent; and the length of time of such employment or representation.

(F)            Name and address of employer during the past **three (3) years** if other than the present employer.

(G) Description sufficient for identification of the subject matter of the soliciting in which the applicant will engage.

(H) Period of time for which the Certificate is applied.

(I) The date, or approximate date of the latest previous application for a Certificate under this Code, if any.

(J) Has a Certificate of Registration issued to the applicant under this Chapter ever been revoked?

(K) Has the applicant ever been convicted of a violation of any of the provisions of this Chapter or the Code of any other Illinois municipality regulating soliciting?

(L) Has the applicant ever been convicted of the commission of a felony under the laws of the State of Illinois or any other State or Federal law of the United States?

(M) Also, such information as the Mayor or Chief of Police may deem necessary to process the application. **(Ord. No. 14-05; 05-13-14)**

(N) The last **three (3) municipalities** where the applicant has carried on business immediately preceding date of application and the address from which such business was conducted in those municipalities.

All statements made by the applicant upon the application or in connection therewith shall be under oath. The Village shall require every applicant to submit to fingerprinting by the Police Department of this Village or their designees, in connection with the application for a Certificate.

The Village Clerk shall cause to be kept in her office an accurate record of every application received and acted upon, together with all other information and data pertaining thereto and all Certificates of Registration issued under the provisions of this Chapter, and of the denial of application. Applications for Certificates of Registration shall be numbered in consecutive order as filed, and every Certificate issued, and any renewal thereof shall be identified with the duplicate number of the application upon which it was issued.

No Certificate of Registration shall be issued to any person who has been convicted of the commission of a felony under the laws of the State of Illinois or any other State or Federal law of the United States, within **five (5) years** of the date of the application; nor to any person who has been convicted of a violation of any of the provisions of this Chapter, nor to any person whose Certificate of Registration issued hereunder has previously been revoked as herein provided. **(Ord. No. 14-05; 05-13-14)**

**7-2-5**      **ISSUANCE AND REVOCATION OF CERTIFICATE.** The Mayor, after consideration of the application and all information obtained relative thereto, shall deny the application if the applicant does not possess the qualifications for such Certificate as herein required, and that the issuance of a Certificate of Registration to the applicant would not be in accord the intent and purpose of this Chapter. Endorsement shall be made by the Mayor upon the application of the denial of the application. When the applicant is found to be fully qualified, the Certificate of Registration shall issue forthwith.

Any Certificate of Registration issued hereunder shall be revoked by the Mayor if the holder of the Certificate is convicted of a violation of any provision of this Chapter, or has made a false material statement in the application, or otherwise becomes disqualified for the issuance of a Certificate of Registration under the terms of this Chapter. Immediately upon such revocation, written notice thereof shall be given by the certified mail addressed to his or her residence address set forth in the application. Immediately upon the giving of such notice, the Certificate of Registration shall become null and void. The Certificate of Registration shall state the expiration date thereof. **(Ord. No. 14-05; 05-13-14)**

**7-2-6**        **DUTY OF SOLICITORS.** Any solicitor who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

**7-2-7**        **UNINVITED SOLICITING PROHIBITED.** It is hereby declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined in defiance of a notice exhibited at the residence stating in clear and concise wordage that soliciting is not invited. **(Ord.; 05-13-14)**

**7-2-8**        **TIME LIMIT ON SOLICITING.** It is hereby declared to be unlawful and shall constitute a nuisance for any person, whether registered under this Chapter or not, to go upon any premises and ring the doorbell upon or near any door of a residence located thereon, or rap or knock upon any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence for the purpose of securing an audience with the occupant thereof, and engage in soliciting as herein defined, prior to **nine o'clock (9:00) A.M.** or after **four o'clock (4:00) P.M.** from Monday through Saturday, or at any time on a Sunday or on a State or National Holiday. **(Ord. No. 14-05; 05-13-14)**

**7-2-9**        **FEES.** Upon making an application for a Certificate, the applicant shall pay a non-refundable application fee which shall be:

(A)            For a period of not less than **one (1) person** per day, the sum of **Fifty Dollars (\$50.00).**

(B)            For an annual license, the fee shall be the sum of **One Hundred Dollars (\$100.00).**

**(Ord. No. 14-05; 05-13-14)**

**ARTICLE III - PEDDLERS**

**7-3-1**        **LICENSE REQUIRED.** It shall be unlawful for any person, firm or corporation to engage in the business of hawker or peddler, of any merchandise, article or thing without having first secured a license therefor.

**7-3-2**        **DEFINITIONS.**    "**Peddle**" shall mean the selling, bartering or exchanging or the offering for sale, barter, or exchange, of any tangible personal property upon or along the streets, highways or public places of the Village, or from house to house, whether at **one (1) place** thereon or from place to place, from any wagon, truck, pushcart, or other vehicle or from moveable receptacles of any kind, but shall not include the delivery of any item previously ordered or the sale of items along delivery routes where the purchaser has previously requested the seller to stop and exhibit his items. Nor shall peddle be taken to include the solicitation of orders by sample where the goods are not delivered at the time the order is taken. Peddlers of meat, fruit, vegetables, or other farm produce on the State highways and streets are prohibited.

**7-3-3**        **APPLICATION.** A person desiring a license may obtain the same by making application with the Village Clerk and providing the following information:

- (A)            Name and physical description of applicant.
- (B)            Permanent home and address and local address if operating from such an address.
- (C)            A brief description of the business and of the goods to be sold.
- (D)            Name and address of the employer, if any.
- (E)            The length of time for which the right to do business is desired.
- (F)            Evidence that the agent is acting on behalf of the corporation he presents.
- (G)            Statement of the applicant's criminal record, other than a traffic record.
- (H)            The last **three (3) municipalities** where the applicant has carried on business immediately preceding date of application and the address from which such business was conducted in those municipalities.

**7-3-4**        **INVESTIGATION OF APPLICANTS.** Upon receipt of each application, it shall be referred to the Chief of Police, who shall investigate the business and moral character of the applicant. If the facts show the applicant unfit to receive the license, then it shall be denied.

**7-3-5**        **FEES.** The fee for a license issued under this Chapter shall be **Fifty Dollars (\$50.00)** per person per day, or **One Hundred Dollars (\$100.00)** per year. Fees for area produce farmers are not required to be paid for peddling. (**Ord.; 05-13-14**)

**7-3-6**        **HOURS.** It is hereby declared to be unlawful and shall constitute a nuisance for any person, whether registered under this Code or not, to go upon any premises and ring the doorbell upon or near any door of a residence located thereon, or rap or knock upon any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof, and engage in peddling as herein defined, prior to **nine o'clock (9:00) A.M.** or after **four o'clock (4:00) P.M.** from Monday through Saturday, or at any time on a Sunday or on a State or National Holiday. **(Ord.; 05-13-14)**

**7-3-7**        **FRAUD.** Any licensed peddler or hawker who shall be guilty of any fraud, cheating or misrepresentation, whether through himself or through an employer while acting as a peddler in the Village, or who shall barter, sell or peddle any goods or merchandise or wares other than those specified in his application for a license shall be fined not less than **One Hundred Dollars (\$100.00)**, nor more than **Seven Hundred Fifty Dollars (\$750.00)** for each offense, and the Mayor may revoke his license for such an offense. **(Ord.; 05-13-14)**

**7-3-8**        **LOCAL BUSINESSES AND FARMERS EXCLUDED.** The provisions of this Article shall not apply to persons employed or representing an established merchant, business firm, or corporation located and regularly doing business in the Village or to farmers selling any food items raised or produced by themselves and/or to permanently established residents who are voters in the Village or anyone duly licensed.

**ARTICLE IV – JUNK DEALERS**

**7-4-1**        **DEFINITIONS.** The term “**junk**”, as used in this Chapter shall be held to mean and include scrap and old iron, steel, chain, brass, copper, magnesium, aluminum, tin, lead or other base metals, scrap lumber, old rope, old bags, rags, waste paper, paper clippings, scraps of woolens, clips, bagging, rubber and glass, and empty bottles of different kinds of sizes when the number of each kind or size is less than **one (1) gross**, any wrecked or dilapidated motor vehicle, engine, or machinery received, stored or held for more than **ninety (90) days**, and all articles and things discarded or no longer used as a manufactured article composed of or consisting of any **one (1)** or more of the materials or articles herein mentioned.

The term “**junk dealer**”, as used in this Chapter shall be held to mean and include every person, firm, partnership, or corporation that shall engage in the business of buying, selling, bartering or exchanging, or shall collect, receive, store or hold in possession for sale, barter or exchange, any of the things in and by this Section defined as “**junk**”.

**7-4-2**        **PHYSICAL REQUIREMENTS.** The minimum physical requirements at all times for each junk yard shall be as follows:

(A)            The premises where the junk yard is located shall not have more than **two (2) entrances** thereto and **two (2) exits** therefrom, each of which shall not exceed **fifteen (15) feet** in width at the perimeter of the premises.

(B)            The premises where the junk yard is located shall be enclosed on its perimeter with a solid, non-transparent, vertical wall or fence of a minimum height of **seven (7) feet** measured from ground level, excepting for the entrances and exits permitted by **Section 7-4-2(A)** above.

(C)            The aforesaid solid, non-transparent wall or fence and the gates or doors, if any, at the aforesaid entrances and exits shall not contain any sign, poster or advertising matter of any kind whatsoever, excepting **one (1) sign** of the licensee thereon not exceeding **one hundred (100) square feet** in size.

(D)            The public streets and alleys adjacent to the junk yard shall not have junk thereon.

**7-4-3**        **LICENSE REQUIRED.** It shall be unlawful for any person, firm, partnership, or corporation to keep, maintain, conduct or operate a junk yard within the corporate limits of the Village, without first obtaining a license to do so as herein provided. A separate license shall be secured for each junk yard located on non-contiguous lots, blocks, tracts or parcels of land.

**7-4-4**        **APPLICATION.** Before any license under the provisions of this Section is issued, any person, firm, partnership or corporation desiring to operate a junk yard in this Village shall first make a verified application in writing to the Village Clerk, in the absence of provision to the contrary, stating thereon the full name of the applicant, his residence address, the trade name of the applicant, the legal description of the premises where the junk yard is to be located, the size and approximate location of each entrance thereto and exit therefrom, whether or not the premises where the junk yard is to be located is enclosed on its perimeter with a solid, non-transparent wall or fence of a minimum height of **seven (7) feet**, measured

from ground level, excepting the entrances and exits, and whether or not the public streets and alleys adjacent to the premises where the junk yard is to be located have junk thereon. If the applicant is a firm of partnership, the names and residence addresses of all the partners and in the case of a corporation, the names and residence addresses of the president and secretary shall be stated in the application.

**7-4-5**        **DISQUALIFICATION.** Any applicant for a license to keep, maintain, conduct or operate a junk yard shall be disqualified for any of the following reasons:

- (A)            Not a person of good character.
- (B)            Falsification of an application for a license hereunder.
- (C)            License for a junk yard theretofore issued to the applicant has been revoked during the preceding **twenty-four (24) months.**
- (D)            Failure to meet any one (1) of the minimum physical requirements for a junk yard as specified in **Section 7-4-2** hereof.

**7-4-6**        **LICENSE.** Any and all licenses issued hereunder shall state that such license is issued in the name of the junk dealer solely for the purpose of keeping, maintaining, conducting, and operating a junk yard, the expiration date thereof, the legal description of the premises where the junk yard is to be located, that the license shall be used and privileges thereof exercised only at the described premises, and that such license is non-assignable and non-transferable.

Such license shall further provide that it is issued subject to all the provisions of this Chapter; that upon the first conviction for a violation of any of the provisions of this Chapter, in addition to the fine, such junk yard shall remain closed for a period of **thirty (30) days**; that upon the second conviction for a violation of any of the provisions of this Chapter, such license shall become null and void, and the licensee shall forfeit all sums paid for such license, and that the licensee, by the acceptance of such license, expressly agrees to all the terms and conditions thereof, and to the terms and provisions of this Section and all amendments thereto.

**7-4-7**        **LICENSE FEE.** The annual license fee for each junk yard shall be **One Hundred Dollars (\$100.00)**, payable in advance with the filing of the application for license, and shall not be subject to prorate reduction for a portion of the year, either because of the application for or because of revocation of a license; provided, however, that only **one (1)** annual license fee shall be payable for licenses which may be issued whenever the applicant desires to keep, maintain, conduct or operate junk yards on lots, blocks, tracts, or parcels of land which are situated on directly opposite sides of and abut upon each side of a public street or alley. Where such place of business is not located in the Village, but the operator carries on the business of buying or collecting or bartering for the items heretofore enumerated within this Village, the annual fee shall be **One Hundred Dollars (\$100.00)** for each junk dealer. The fee is payable as provided in **Sections 7-1-2** and **7-1-3.**

**7-4-8**        **MINORS.** No licensee hereunder shall purchase or receive any article whatsoever from any minor, without the written consent of their parents or guardian.

**ARTICLE V - RAFFLE CODE**

**7-5-1**        **DEFINITIONS.** Unless the context otherwise requires, the words and phrases herein defined are used in this Code in the sense given them in the following definitions:

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

**"RAFFLE"** means a form of lottery, as defined in **Section 28-2, subparagraph (b) of the Criminal Code of 1961**, conducted by an organization licensed under this Article in which:

(A)            the player pays or agrees to pay something of value for a chance, presented and differentiated by a number or by a combination of numbers, or by some other medium, one or more of which chances is to be designated the winning chance;

(B)            the winning chance is to be determined through a drawing or by some other method based on an element of chance by an act or set of acts on the part of persons conducting or connected with the lottery, except that the winning chance shall not be determined by the outcome of a publicly exhibited sporting contest.

The definitions contained in **Section 15/2, of Chapter 230; (Ill. Comp. Stat.)** are hereby adopted by reference as if fully set out herein. **(See 230 ILCS Sec. 15/1)**

**7-5-2**        **ADMINISTRATION.** The Mayor is hereby charged with the administration of the appropriate provisions of this Code, and may appoint persons to assist in the exercise of the powers and the performance of the duties herein provided, including, but not limited to, the members of his staff, the Village Attorney, the Village Clerk, and the Chief of Police. **(See 230 ILCS Sec. 15/2)**

**7-5-3**        **LICENSE REQUIRED.** No person or organization shall conduct or partake in the selling of raffle chances within the limits and territory of this Village without having a license to do so issued by the Mayor in a manner hereinafter provided and a valid license for such purpose as provided by the **Illinois Compiled Statutes**. Licenses shall be issued only to bona fide religious, charitable, labor, fraternal, educational or veterans' organizations that operate without profit to their members and which have been in existence continuously for a period of **five (5) years** immediately before making application for a license and which have had during that entire **five (5) year period** a bona fide membership engaged in carrying out their objectives or to a nonprofit fundraising organization that the licensing authority determines is organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering extreme financial hardship as the result of an illness, disability, accident or disaster. **(See 230 ILCS Sec. 15/2)**

(A)            The above mentioned types of organizations shall be defined pursuant to the **Illinois Compiled Statutes** and incorporated herein;

(B)            No person or organization shall be issued more than **one (1) license** in a period of **one (1) week**;

(C)            The manager of a raffle game shall give a fidelity bond in the sum of **One Thousand Dollars (\$1,000.00)** in the performance of his duties. The Mayor or his

designated representative is authorized to waive requirement for bond by including a waiver provision in the license issued, provided that the license containing such waiver provision shall be granted only by majority vote of the members of the licensed organization. The terms of the bond shall provide that notice shall be given in writing to the licensing authority not less than **thirty (30) days** prior to its cancellation.

(D) Any license issued under this Code shall be nontransferable.

**7-5-4 APPLICATIONS FOR LICENSE.** The Mayor is authorized to grant and issue licenses to eligible organizations to conduct raffles and to participate in the sale of raffle tickets within the limits and territory of the Village upon the conditions and in the manner provided by this Code and by the Act of the General Assembly of Illinois, and not otherwise. Such license shall be in writing, signed by the Mayor and attested by the Village Clerk with the seal of his office affixed thereto.

Prior to the issuance of a license, the applicant shall submit to the Village Clerk an application, in triplicate, in writing and under oath stating the following:

- (A) The name and address of the organization;
- (B) The type of organization that is conducting the raffle, i.e., religious, charitable, labor, fraternal, educational, veterans or other;
- (C) The length of time the organization has continually existed immediately before making application for a license;
- (D) The applicant shall give the aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle;
- (E) The applicant will give the maximum retail value of each prize awarded by a licensee in a single raffle;
- (F) The amount that the organization plans to charge for each raffle chance issued or sold;
- (G) The time and location where the raffle is to be held;
- (H) The purpose for which the proceeds of the raffle will be used;
- (I) The name and address of the person conducting and performing the raffle, and his relationship with the organization;
- (J) The last date which the applicant has applied for a raffle license;
- (K) The area in which the organization plans to sell or issue its raffle chances;
- (L) Whether or not the applicant has ever been convicted of a felony.

**7-5-5 APPLICATION: ISSUANCE.** All licenses issued by the Mayor or Village Clerk are subject to the following restrictions:

- (A) No person, firm or corporation shall conduct raffles or chances without having first obtained a license therefor pursuant to this Code.
- (B) The license and application for a license shall specify the area or areas within the licensing authority in which raffle chances will be sold or issued, the time period during which raffle chances will be sold or issued, the time of determination in winning chances, and the location or locations with which winning chances will be determined.
- (C) The application shall contain a sworn statement attesting to the not-for-profit character of the prospective licensee organization signed by the presiding officer and the secretary of that organization.
- (D) The Mayor shall act upon a license application within **thirty (30) days** from the date of application.

(E) The application for license shall be prepared in accordance with this Code.

(F) A license authorizes the licensee to conduct raffles as defined in this Code. **(See 230 ILCS Sec- 15/3)**

**7-5-6**      **PROHIBITED LICENSEES.** The following are ineligible for any raffle license:

- (A) Any person who has been convicted of a felony.
- (B) Any person who is or has been a professional gambler or gambling promoter;
- (C) Any person who is not of good moral character;
- (D) Any firm or corporation in which a person defined in paragraphs (A), (B) or (C) above has a propriety, equitable or credit interest, or in which such a person is active or employed;
- (E) Any organization in which a person defined in paragraphs (A), (B), or (C) above is an officer, director or employee, whether compensated or not;
- (F) Any organization in which a person defined in paragraphs (A), (B), or (C) above is to participate in the management or operation of a raffle as defined by this Code. **(See 230 ILCS Sec. 15/3)**

**7-5-7**      **RESTRICTIONS ON THE CONDUCT OF RAFFLES.**

- (A) The entire net proceeds of any raffle must be exclusively devoted to the lawful purposes of the organization permitted to conduct that game.
- (B) No person except a bona fide member of the sponsoring organization may participate in the management or operation of the raffle;
- (C) No person may receive any remuneration or profit for participating in the management or operation of the raffle;
- (D) A licensee may rent a premises on which to determine a winning chance or chances in a raffle only from an organization which has also been licensed under the Raffle Act;
- (E) Raffle chances may be sold or issued only within the area specified on the license, and winning chances may be determined only at those locations specified on the license;
- (F) No person under the age of **eighteen (18) years** may participate in the conducting of raffles or chances. A person under the age of **eighteen (18) years** may be within the area where winning chances are being determined only when accompanied by his parent or guardian.
- (G) If a lessor rents premises where a winning chance or chances on a raffle are determined, the lessor shall not be criminally liable if the person who uses the premises for the determining of winning chances does not hold a license issued by the governing body of any county or municipality under the provisions of this Code. **(See 230 ILCS Sec. 15/4)**

**7-5-8**      **RECORDS.**

- (A) Each organization licensed to conduct raffles and chances shall keep records of its gross receipts, expenses and net proceeds for each single gathering or occasion at which winning chances are determined. All deductions from the gross receipts for each

single gathering or occasion shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other reason for the deduction, and the recipient. The distribution of net proceeds shall be itemized as to payee, purpose, amount and date of payment.

(B) Gross receipts from the operation of raffle programs shall be segregated from other revenues of the organization, including bingo gross receipts if bingo games are also conducted by the same non-profit organization pursuant to license therefor issued by the Department of Revenue of the State of Illinois, and placed in a separate account. Each organization shall have separate records of its raffles. The person who accounts for the gross receipts, expenses, and net proceeds from the operation of raffles shall not be the same person who accounts for other revenues of the organization.

(C) Each organization licensed to conduct raffles shall report monthly to its membership and to the Village its gross receipts, expenses and net proceeds from raffles and the distribution of net proceeds itemized as required by this Section.

(D) Records required by this Section shall be preserved for **three (3) years**, and the organization shall make available their records relating to operation of raffles for public inspection at reasonable times and places. **(See 230 ILCS Sec. 15/6)**

**7-5-9**            **TERM AND FEES.**

(A) The aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle shall not exceed **Fifty Thousand Dollars (\$50,000.00);**

(B) The maximum retail value of each prize awarded by a licensee in a single raffle shall not exceed **Fifteen Thousand Dollars (\$15,000.00);**

(C) The maximum price which may be charged for each raffle chance issued or sold shall not exceed **One Hundred Dollars (\$100.00);**

(D) The maximum number of days during which chances may be issued or sold shall not exceed **one hundred twenty (120) days;**

(E) Licenses issued pursuant to this Article shall be valid for **one (1) raffle** and may be suspended or revoked for any violation of this Article.

**7-5-10**            **LIMITED CONSTRUCTION.** Nothing in this Code shall be construed to authorize the conducting or operating of any gambling scheme, enterprise, activity or device other than raffles as provided for herein.

**ED. NOTE: Political committees are required by Chapter 230, Sec. 15/8.1 to secure raffle licenses from the State Board of Elections.**

**(See 230 ILCS Sec. 15/2)**

**ARTICLE VI – ADULT USE LICENSING AND REGULATION**

**7-6-1**        **PURPOSE.**    The purpose of this Article is to regulate adult uses to protect the community from the many types of criminal activity frequently associated with such uses. The Village recognizes that such regulation cannot effectively prohibit such uses, but can balance the competing interest of the community in reducing criminal activity and protecting property values versus the protected rights of the owners, operators, employees and patrons of adult uses.

**7-6-2**        **DEFINITIONS.**

(A)        **Adult Bookstore.**    An establishment having as a substantial or significant portion of its sales or stock in trade, books, magazines, films for sale or for viewing on premises by use of motion picture devices or by coin operated means, and periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities", or "specified anatomical areas", or an establishment with a segment or section devoted to the sale or display of such materials, or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, actual sales, presence of video preview or coin operated booths, exclusion of minors from the establishment's premises or any other factors showing the establishment's primary purpose is to purvey such material.

(B)        **Adult Entertainment Cabaret.**    A public or private establishment which:

- (1)        features topless dancers, strippers, "go-go" dancers, male or female impersonators, lingerie or bathing suit fashion shows;
- (2)        not infrequently features entertainers who display "specified anatomical areas"; or
- (3)        features entertainers who by reason of their appearance or conduct perform in a manner which is designed primarily to appeal to the prurient interest of the patron or features entertainers who engage in, or are engaged in explicit simulation of "specified sexual activities".

(C)        **Adult Motion Picture Theater.**    A building or area used for presenting materials distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

(D)        **Adult Novelty Store.**    An establishment having a substantial or significant portion of its sales or stock in trade consisting of toys, devices, clothing "novelties", lotions and other items distinguished or characterized by their emphasis on or use for "specialized sexual activities" or "specified anatomical areas" or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, actual sales, exclusion of minors from the establishment's premises or any other factors showing the establishment's primary purpose is to purvey such material.

(E)        **Nudity.**    Nudity means the showing of the human male or female genitals, pubic area, female breasts with less than a full opaque covering below a point immediately above the top of the areola, human male genitals in a discernibly turgid state even if completely and opaquely covered or, that portion of the buttocks which would be covered by a properly worn "thong" type bikini bottom.

(F) **Public Place.** Public place means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public places include, but are not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not-for-profit and whether open to the public at large or where entrance is limited by a cover charge or membership requirement), hotels, motels, restaurants, nightclubs, country clubs, cabarets and meeting facilities utilized by social, fraternal or similar organizations. Premises used solely as a private residence, whether permanent or temporary in nature, shall not be deemed a public place. Public places shall not include enclosed single sex public restrooms, enclosed single sex functional showers, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctors offices, churches, synagogues or similar places when used for circumcisions, baptisms or similar religious ceremonies, portions of hospitals and similar places in which nudity or exposure is necessarily and customarily expected outside of the home; nor shall it include a person appearing in a state of nudity in a modeling class operated by (1) a proprietary school licensed by the State; a college, junior college or university supported entirely or partly by taxation; or (2) a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or a university supported entirely or partly by taxation or an accredited private college.

(G) **Adult Use.** Adult bookstores, adult motion picture theaters, adult entertainment cabarets, adult clubs allowing nudity at regular or frequent times, adult novelty stores and other similar uses.

(H) **Employee.** Employees, independent contractors or any other person who is retained by the licensee or subject to dismissal from working at the licensed premises.

(I) **Specified Sexual Activities.** For the purpose of this Article, "specified sexual activities" means:

- (1) human genitals in the state of sexual stimulation or arousal;
- (2) acts of human masturbation, sexual intercourse or sodomy; and
- (3) fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts.

(J) **Specified Criminal Activity.** For the purpose of this Article, "specified anatomical areas" means:

- (1) less than completely and opaquely covered:
  - (a) human genitals;
  - (b) pubic region;
  - (c) buttocks;
  - (d) female breasts below a point immediately above the top of the areola; and
- (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(K) **Specified Criminal Activity.** Specified criminal activity means any of the following offenses:

- (1) Prostitution or promotion of prostitution; dissemination of obscenity; sale distribution or display of harmful material to a minor; sexual performance by a minor; possession or distribution of child pornography; public lewdness; public indecency; indecency with a child; engaged in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled

**BUSINESS CODE 7-6-2**

substance; or any similar offenses to those described above under the criminal or penal code of other states or countries;

- (2) For which:
  - (a) less than **two (2) years** have elapsed since the date of conviction or the date of release from confinement imposed for the conviction which is the later date, if the conviction is of a misdemeanor offense;
  - (b) less than **five (5) years** have elapsed since the date of conviction or the date of release from confinement for conviction, whichever is the later date, if the conviction is a felony offense; or
  - (c) less than **five (5) years** have elapsed since the date of the last conviction or the date of release from confinement from the last conviction, whichever is the later date, if the convictions are of **two (2)** or more misdemeanor offenses or combination of misdemeanor offenses occurred within any **twenty-four (24) month** period; and
- (3) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

**7-6-3      LICENSE REQUIRED.**

(A) It shall be unlawful for any person to operate an adult use without a valid adult use business license issued by the Village pursuant to this Article.

(B) An application for a license shall be made on a form provided by the Village.

(C) All applicants must be qualified according to the provisions of this Article. The application may request and the applicant shall provide such information (including fingerprints) as is needed to enable the Village to determine whether the applicant meets the qualifications established in this Article.

(D) If a person who wishes to operate an adult use is an individual, the person must sign the application for a license as applicant. If the applicant is a club, consisting of private or public membership, then such entity shall also be licensed under this Article. If a person who wishes to operate an adult use is other than an individual or club, each individual who has a **twenty percent (20%)** or greater interest in the business, including corporations, must sign the application for a license as applicant. Each applicant must be qualified under the following section and each applicant shall be considered a licensee if the license is granted.

(E) The completed application for an adult use business license shall contain the following information:

- (1) If the applicant is an individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is **eighteen (18) years** of age;
- (2) If the applicant is a club, consisting of private or public membership, a copy of the by-laws of the club must be submitted with the application. In addition, a sworn statement as to the purposes, general activities and requirement for club membership must be submitted.
- (3) If the applicant is a partnership, the partnership shall state its complete name and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any; and

- (4) If the applicant is a corporation, the corporation shall state its complete name, the date of incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and principal shareholders, (those with a **twenty percent (20%)** or more stake) and the name and address of the registered corporate agent.
- (F) If the applicant intends to operate the adult use business under a name other than that of the application, he/she must state:
  - (1) the business' fictitious name and
  - (2) submit any required registration documents.
- (G) Whether the applicant has been convicted of any specified criminal activity as defined in this Article, and if so, the specified criminal activity involved, the date, place and jurisdiction of each.
- (H) Whether the applicant has had a previous license under this Article or similar ordinances from another jurisdiction denied, suspended or revoked, including the name and location of the business which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation. If the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is or was licensed under this Article or similar ordinance in another jurisdiction and a license has previously been denied, suspended or revoked, include the name and location of the business for which the permit was denied, suspended or revoked, as well as the date of denial, suspension or revocation.
- (I) Whether the applicant holds any other licenses under this Article or other similar ordinance from another jurisdiction and if so, the names and locations of such other licensed businesses.
- (J) A sketch or diagram showing the configuration of the premises, including a statement of total floor area occupied by the business. This sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises.

**7-6-4**      **ISSUANCE OF LICENSE.**

- (A) Within **thirty (30) days** after receipt of a completed adult use business license application, the Village shall approve or deny the issuance of a license to an applicant. The Village shall approve the issuance of a license unless it determines, by a preponderance of the evidence, any one or more of the following:
  - (1) The applicant is under **eighteen (18) years** of age;
  - (2) The applicant is overdue in payment to the Village of taxes, fees, fines or penalties assessed against or imposed upon him/her in relation to any business;
  - (3) The applicant has failed to provide information reasonably necessary for the issuance of the license or has falsely answered a question or request for information on the application form;
  - (4) The applicant has been denied a license by the Village to operate an adult use business within the preceding **twelve (12) months** or whose license to operate an adult use business has been revoked within the preceding **twelve (12) months**;

- (5) The applicant has been convicted of a specified criminal activity defined in this Article.
- (6) The premises to be used for adult use business has not been inspected and approved by the Fire Department and the Building Department as being in compliance with applicable laws and ordinances.
- (7) The license fee required by this Article has not been paid.
- (8) The applicant of the proposed establishment is in violation or not in compliance with all of the provisions of this Article.

(B) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date and the address of the adult use business. All licenses shall be posted in a conspicuous place at or near the entrance to the business so that they may be easily read at any time.

(C) The Fire Department and Code Enforcement Officers shall complete their inspection certification that the premises is in compliance or not in compliance with Village codes within **twenty (20) days** of receipt of the application by the Village.

(D) No adult use business license shall be issued unless it meets all criteria set forth in the Zoning Code. However, an adult use business license may be issued for a premises which is a legal nonconforming use which has not yet been amortized or for a premises where such amortization is being challenged by litigation.

(E) No signs, advertising or other notice to the public may be given for any premises where adult use is conducted, pursuant to this Article.

**7-6-5      LIQUOR.** No liquor license shall be issued to a licensee or to premises where adult use is conducted, nor shall liquor be sold, given away or allowed to be consumed on the premises where any adult use is conducted.

**7-6-6      FEES.** Every application for an adult use business license (whether a new license or for renewal of an existing license) shall be accompanied by a **Seven Hundred Fifty Dollar (\$750.00)** non-refundable application and investigation fee.

**7-6-7      INSPECTION.**

(A) An applicant or licensee shall permit representatives of the Police Department, Fire Department, Building Department or other Village or Village designated departments or agencies to inspect the premises of the adult use for the purpose of ensuring compliance with the provisions of this Article at any time it is occupied or open for business.

(B) A person who operates an adult use or his agent or employee violates this Article if he/she refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

**7-6-8      EXPIRATION OF LICENSE.**

(A) Each license shall expire on the **January 1** after it was issued and may be renewed only by making application as provided in **Section 7-6-4**. Application for renewal shall be made at least **thirty (30) days** before the expiration date and when made less than **thirty (30) days** before the expiration date, the expiration of license will not be affected.

(B) If the Village denies renewal of a license, the applicant shall not be issued a license for **one (1) year** from the date of denial. If, subsequent to denial, the Village finds that the basis for denial of the license has been corrected or abated, the applicant may be granted a license.

**7-6-9        SUSPENSION.** The Village may suspend a license for a period not to exceed **thirty (30) days** if, after a hearing, it determines that a licensee or an employee of a licensee:

- (A) violated or is not in compliance with any section of this Article;
- (B) refused to allow an inspection of the adult use business premises as authorized by this Article, or
- (C) knowingly permitted gambling by any person on the adult use business premises.

If the licensee or an employee of the licensee has been found guilty in a court of law of a violation of this Article, no hearing is necessary prior to suspension of the license.

**7-6-10        REVOCAION.**  
(A) The Village shall revoke a license if a cause of suspension in **Section 7-6-8** above occurs and the license has been suspended within the preceding **twelve (12) months** or if the licensee is convicted of any specified criminal activity.

- (B) The Village may revoke a license if it determines, after a hearing, that:
- (1) A licensee gave false or misleading information in the material submitted during the application process;
  - (2) A licensee or management personnel has knowingly allowed possession, use or sale of alcohol or controlled substances on the premises;
  - (3) A licensee or management personnel has knowingly allowed prostitution on the premises;
  - (4) A licensee or management personnel knowingly operated the adult use business during a period of time when the licensee's license was suspended;
  - (5) A licensee or management personnel has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sex act to occur in or on the licensed premises;
  - (6) A licensee is delinquent in payment to the Village, County or State for any taxes or fees past due;
  - (7) A licensee or management personnel has knowingly facilitated another's commission of the offense of public indecency; or
  - (8) The adult use is a public nuisance as defined by statute, ordinance or case law.

(C) If the Village revokes a license, the revocation shall continue for **one (1) year** and the licensee shall not be issued an adult use business license for **one (1) year** from the date the revocation became effective. If subsequent to revocation, the Village finds that the factual basis for the revocation did not occur, the applicant may be granted a license.

(D) After denial of an application, or denial of a renewal of an application, or suspension or a revocation of any license, the applicant or licensee may seek prompt judicial review of such action in any court of competent jurisdiction.

**7-6-11**      **TRANSFER OF LICENSE.** A licensee shall not transfer his/her license to another nor shall a licensee operate an adult use business under the authority of a license at any place other than the address on the license.

**7-6-12**      **BUSINESS RECORDS.** All adult uses shall file a verified report with the Village showing the licensee's gross receipts and amounts paid to employees during the preceding calendar year. In addition, all adult uses shall maintain and retain for a period of **two (2) years**, the names, addresses and ages of all persons employed, including independent contractors, by the licensee.

**7-6-13**      **LIQUOR LICENSE.** No adult use may be issued a liquor license. Nor shall any establishment with a liquor license operate as an adult use.

**7-6-14**      **ADULT ENTERTAINMENT CABARETS – RESTRICTIONS.** All dancing or other performances shall occur on a stage intended for that purpose which is raised at least **two (2) feet** from the level of the floor. No dancing or other performance shall occur closer than **ten (10) feet** to any patron. In addition, no dancer or performer shall fondle, caress or otherwise touch any patron and no patron shall fondle, caress or otherwise touch any dancer or performer. No patron shall directly pay or give any gratuity to any dancer or performer and no dancer shall solicit any pay or gratuity from any patron. Gratuities may be indirectly given to dancers or performers by placing the gratuity on the stage.

**7-6-15**      **VIDEO VIEWING BOOTHS – RESTRICTIONS.** No booths, stalls or partitioned portions of a room or individual rooms used for the viewing of motion pictures or other forms of entertainment shall have doors, curtains or portal partitions, but all such booths, stalls or partitioned portions of a room or individual rooms so used shall have at least **one (1) side** open to an adjacent public room so that the area inside is visible to persons in the adjacent public room. All such described areas shall be lighted in such a manner that the persons in the areas used for viewing motion pictures or other forms of entertainment are visible from the adjacent public rooms, but such lighting shall not be of such intensity as to prevent the view of the motion pictures or other offered entertainment.

**7-6-16**      **HOURS OF OPERATION.** No adult use shall be open prior to **10:00 A.M.** or after **2:00 A.M.**

**7-6-17**      **INVESTIGATION.** Any licensee hereunder shall permit law enforcement officials, free and unlimited access to the premises during hours of operation, upon reasonable request, for the purposes of investigating compliance with the provisions of this Article.

**ARTICLE VII – FIREWORKS CODE**

**7-7-1**        **DEFINITIONS.** As used in this Article, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

**Common Fireworks:** Any fireworks designed primarily to produce visual or audible effects by combustion.

(A)            The term includes:

- (1)            Ground and hand-held sparkling devices, including items commonly known as dipped sticks, sparklers, cylindrical fountains, cone fountains, illuminating torches, wheels, ground spinners, and flitter sparklers;
- (2)            Smoke devices;
- (3)            Fireworks commonly known as helicopters, aerals, spinners, roman candles, mines and shells;
- (4)            Class C explosives classified as common fireworks by the United States Department of Transportation, by regulations found in the Code of Federal Regulations.

(B)            The term does not include fireworks commonly known as firecrackers, salutes, chasers, skyrockets, and missile-type rockets.

**Dangerous Fireworks:** Any fireworks not defined as a “common firework”.

**Fireworks:** Any composition or device, in a finished state, containing any combustible or explosive substance for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, and classified as common or special fireworks.

**Special Fireworks:** Any fireworks designed primarily for exhibition display by producing visible or audible effects. The term includes:

(A)            Fireworks commonly known as skyrockets, missile-type rockets, firecrackers, salutes, and chasers; and

(B)            Fireworks not classified as common fireworks.

**7-7-2**        **SALE OF FIREWORKS UNLAWFUL.** It is unlawful for any person to sell any fireworks within the Village other than those fireworks designated in **Section 7-7-5** of this Article, provided that this prohibition shall not apply to duly authorized public displays.

**7-7-3**        **POSSESSION, USE AND DISCHARGE OF DANGEROUS FIREWORKS UNLAWFUL.** It is unlawful for any person to sell, possess, use, transfer, discharge or explode any dangerous firework within the Village; provided that this prohibition shall not apply to duly authorized public displays.

**7-7-4**        **PERMIT REQUIRED TO SELL OR DISPLAY FIREWORKS.** It is unlawful for any person to engage in the retail sale of or to sell fireworks or to hold, conduct, or engage in a public display of fireworks within the Village without first having obtained a valid permit issued pursuant to the provisions of this Article.

**7-7-5**        **TIME LIMIT SET ON SALE AND USE.** No permit holder shall offer for retail sale or sell any fireworks within the Village except from **12:00 Noon** on the **28<sup>th</sup> of June** to **12:00 Noon** on the **6<sup>th</sup> of July** of each year. No fireworks may be sold or discharged between the hours of **11:00 P.M.** and **9:00 A.M.** Provided, the sale and use of fireworks as provided in this Section shall be limited to the following:

Dipped stick, sparklers and smoke devices.

**7-7-6**        **PERMIT FEES.** The annual fee for a "seller's permit" for the sale of fireworks as may be authorized under this Article, shall be **One Hundred Dollars (\$100.00)** per year for each seller's permit, payable in advance. The fee for a "public display permit" for the public display of fireworks shall be **One Hundred Dollars (\$100.00)**, payable in advance, unless waived by the Village Board.

**7-7-7**        **ISSUANCE – NONTRANSFERABLE VOIDING.**

(A)        **Sellers.** Each seller's permit issued under this Article shall be for only one retail outlet. The number of seller's permits shall not be limited as long as all conditions are met as stated in **Section 7-7-11** of this Article. Each seller's permit issued pursuant to this Article shall be valid only for the current year, shall be used only by the designated permittee and shall be nontransferable.

(B)        **Public Display Permit.** Each public display permit issued pursuant to this Article shall be valid for the specific authorized public display event only, shall be used only by the designated permittee and shall be nontransferable. Any transfer or unauthorized use of a permit is violation of this Article and shall void the permit granted in addition to all other sanctions provided in this Article.

**7-7-8**        **APPLICATION FOR PUBLIC DISPLAY PERMIT.** Applications for a permit to conduct a public display of fireworks shall be made to the Fire Chief at least **fourteen (14) days** prior to the scheduled event. Applicants shall meet all qualifications and requirements of state law regarding public display of fireworks and all fire and safety requirements as set forth in the standards for public display, and as set forth in **Section 7-7-12** of this Article.

**7-7-9**        **APPLICATION FOR SELLER'S PERMIT—CONDITIONS FOR ISSUANCE.** Applications for seller's permits shall be made to the Village Clerk annually on or after **April 1<sup>st</sup>** of the year for which the permit is issued and the filing period shall close on **April 15<sup>th</sup>** of such year unless extended by action of the Village Board. Applications shall be signed by the retail seller, if an individual, or by the duly authorized officer, if an association or corporation. It is unlawful for a fireworks manufacturer, wholesaler or supplier to make application for or to obtain a retail sales permit on behalf of any retailer. Seller's permits for the sale of those fireworks allowed pursuant to **Section 7-7-4** of this Article shall be issued only to applicants meeting the following conditions:

(A)        The retailer or person in charge and responsible for the retail operation shall be **twenty-one (21) years** of age or older, of good moral character and of demonstrated responsibility.

(B) The applicant shall have a valid and current license issued by the State of Illinois authorizing the holder to engage in the retail sale of fireworks. **(See 425 ILCS 35)**

(C) The applicant shall own or have the right to possess a temporary fireworks stand complying with the requirements of this Article.

(D) The applicant shall procure and maintain a policy or policies of public liability and property damage insurance issued by a company or companies authorized to do business in the State of Illinois in the following minimum amounts: **Five Hundred Thousand Dollars (\$500,000.00)** for injuries to any one person in one accident or occurrence; **One Million Dollars (\$1,000,000.00)** for injuries to two or more persons in any one accident or occurrence; **Five Hundred Thousand Dollars (\$500,000.00)** for damage to property in any one accident or occurrence; **One Million Dollars (\$1,000,000.00)** combined single limit for any one accident or occurrence. In addition, the Village is to be an additional named insured and the policy shall provide for the immediate notification of the Village by the insurer of any cancellation of any policy.

(E) The permit holder's location or place of business shall be only in those areas or zones within the Village where commercial activities are authorized under applicable zoning law; provided, that the sale of those fireworks authorized by **Section 7-7-5** of this Article shall not be deemed an enlargement of an existing nonconforming use.

(F) The applicant shall post with the Village a performance bond or a cash deposit in an amount not less than **Two Hundred Dollars (\$200.00)** conditioned upon the prompt removal of the temporary fireworks stand and the cleaning up of all debris from the site of the stand, which deposit shall be returned to the applicant only in the event that the applicant removes the temporary stand and cleans up all debris to the satisfaction of the Village. In the event the applicant fails to do so, the performance bond or cash deposit shall be forfeited. In no event shall the applicant be entitled to the return of the performance bond or cash deposit if he or she has failed to remove the stand and clean up all debris by the **tenth (10<sup>th</sup>) of July** following the sales period.

(G) No seller's permit shall be issued for a location which fails to meet the criteria set forth in **Section 7-7-11** of this Article, including the minimum stand separation requirement. When necessary, in order to determine priority as to a proposed location, the earliest date and time of filing of an application for a seller's permit with the Village Clerk shall be controlling.

**7-7-10 SALE FROM STANDS – EXCEPTIONS.** All approved fireworks as set forth in **Section 7-7-5** of this Article except toy paper caps containing not more than **twenty-five hundredths grain** of explosive compound for each cap and trick or novelty device not classified as common fireworks, shall be sold and distributed only from temporary stands.

**7-7-11 STANDARDS FOR TEMPORARY STANDS.** The temporary stands of all seller's permit holders shall conform to the following minimum standards and conditions:

(A) Temporary fireworks stands need not comply with all provisions of the Building Code; provided, however, that all such stands be erected under the supervision of the Village Building Inspector, who shall require all stands to be constructed in a safe manner ensuring the safety of attendants and patrons. In the event any temporary stand is wired for electricity, the wiring shall conform to the electrical code.

(B) No temporary fireworks stand shall be located within **fifty (50) feet** of any other building or structure, nor within **two hundred fifty (250) feet** of any gasoline station, oil storage tank or premises where flammable liquids or gases are kept or stored.

(C) Each temporary fireworks stand must have at least two exits, which shall be unobstructed at all times.

(D) Each temporary fireworks stand shall have, in a readily accessible place, at least two, **two and one-half (2½) gallon** pressurized water fire extinguishers which are in good working order.

(E) All weeds, grass, and combustible material shall be cleared from the location of the temporary fireworks stand and the surrounding area to a distance of not less than **twenty-five (25) feet**, measured from the exterior walls of the temporary fireworks stand.

(F) No smoking shall be permitted in or near a temporary fireworks stand for a distance of not less than **fifty (50) feet** measured from the exterior walls of the temporary fireworks stand. Signs stating: **"No Smoking Within 50 Feet"** shall be posted on the exterior of each wall of the temporary fireworks stand.

(G) Each temporary fireworks stand shall have a person who is **eighteen (18) years** old or older in attendance at all times the stand is stocked. Stock from the stand shall not be removed and stored in any other building during the sales period without the express approval of the Fire Chief.

(H) All unsold stock and accompanying litter shall be removed from the temporary fireworks stand by **12:00 Noon** on the **seventh (7<sup>th</sup>) day of July** of each year.

(I) No temporary fireworks stand shall be located within **five hundred (500) feet** of any other temporary fireworks stand.

(J) Each temporary fireworks stand shall have provisions for sufficient off-street parking, at least **fifteen (15) spaces**, to avoid impeding a continuous flow of traffic at entrances and exits from the premises.

(K) No person shall discharge any fireworks within **two hundred fifty (250) feet** of the exterior walls of any temporary fireworks stand. Signs stating: **"No discharge of fireworks within 250 feet."** shall be posted on the exterior of all walls of the temporary fireworks stand.

**7-7-12 STANDARDS FOR PUBLIC FIREWORKS DISPLAYS.** All public fireworks displays shall conform to the following minimum standards and conditions:

(A) All public fireworks displays shall be planned, organized and discharged by pyrotechnician, "Pyrotechnician" means an individual who by experience and training has demonstrated the required skill and ability for safety setting up and discharging displays of special fireworks. All individuals shall have a license under the provisions of the Pyrotechnic Distributor and Operator Licensing Act. **(225 ILCS 227)**

(B) A permit must be obtained from the Village and approved by the Fire Chief or designee prior to any display of public fireworks. The permit shall include the name of the applicant and his or her address, the name of the Pyrotechnician and his or her address; the exact location, date and time of the proposed display; the number, type and class of fireworks to be displayed the manner in which the fireworks are being stored prior to the public fireworks display; and shall include the name and address of the insurance company providing the bond required.

(C) A drawing shall be submitted to the Fire Chief showing a plan view of the fireworks discharge site and the surrounding area within a **five hundred (500) foot** radius.

The drawing shall include all structures, fences, barricades, street fields, streams and any other significant factors that may be subjected to ignition or that may inhibit firefighting capabilities.

(D) When, in the opinion of the Fire Chief, such requirement is necessary to preserve the public health, safety and welfare, the permit may require that a Fire Department pumper and a minimum of two trained firefighters shall be on site **thirty (30) minutes** prior to and after the shooting of the event. The exhibitor shall repay the Village for all costs to firefighters for such time.

(E) All combustible debris and trash shall be removed from the area of discharge for a distance of **three hundred (300) feet** in all directions.

(F) All unfired or "dud" fireworks shall be disposed of in a safe manner.

(G) A minimum of two 2A-rated pressurized water fire extinguishers and one fire blanket shall be required to be at the fireworks discharge site.

(H) The permit shall be immediately revoked at any time the Fire Chief or a designee deems such revocation is necessary due to noncompliance, weather conditions such as, but not limited to, extremely low humidity or high winds. The display shall also be cancelled by accidental ignition of any form of combustible or flammable material in the vicinity due to falling debris from the display.

(I) Areas of public access shall be determined by the Fire Chief or designer and maintained in an approved manner.

**7-7-13 USE OF FIREWORKS IN PUBLIC PARKS.** It shall be unlawful for any person to discharge or possess any fireworks upon public land or in any public park, owned by the Village, provided, however, that such use shall be permitted under the following circumstances:

(A) This provision shall not apply to possession of fireworks in the otherwise lawful use of public rights of way such as sidewalks and planting strips. This subsection shall not be a defense to a charge of obstructing traffic or otherwise obstructing a public right of way.

(B) The Fire Chief shall designate limited areas for use during the hours permitted by the Article for the discharge of fireworks as allowed by **Section 7-7-5** of this Article. Otherwise lawful discharge and possession of fireworks as allowed by **Section 7-7-5** in such areas shall not be a violation of this Section. In doing so, the Fire Chief shall consider:

(1) The sensitivity of the area's environment, wildlife and wildlife habitat;

(2) The inconvenience and nuisance to abutting property owners;

(3) The safety and suitability of the area as a place for the discharge of fireworks; and

(4) Danger of fire or other destruction of public property and improvements from the use of the fireworks.

(C) Upon designation of any area, it shall be signed and posted by **July 1<sup>st</sup>** of each year for use on **July 4<sup>th</sup>** between the hours of **9:00 A.M.** and **11:00 P.M.** Designation of any area may be appealed in writing to the Village Board by any citizen of the Village. The decision of the Village Board shall be final.

(D) Nothing in this Article shall be deemed to limit the authority of the Village Board to allow event display of special fireworks under a permit issued in accordance with the provisions of the Code and State statutes.

**7-7-14**      **SPECIAL EFFECTS FOR ENTERTAINMENT MEDIA.** This Code does not prohibit the assembling, compounding, use and display of special effects of whatever nature by any person engaged in the production of motion pictures, radio, or television productions, theatricals or operas when such use and display is a necessary part of the production and such person possesses a valid permit issued by the Village in accordance with **Sections 7-7-7** and **7-7-8** of this Code.

**7-7-15**      **NONPROHIBITED ACTS.** This Code does not prohibit the use of flares or fuses in connection with the operation of motor vehicles, railroads, or other transportation agencies for signal purposes or illumination or for use in forest protection activities.

**7-7-16**      **APPLICABILITY.** The provisions of this Code shall not be applicable to toy paper caps containing not more than **twenty-five hundredths grain** of explosive compound for each cap and trick nor to novelty device not classified as common fireworks.

**7-7-17**      **STATUS OF STATE LAW.** This Code is intended to implement applicable State law, to wit, **Chapters 225 ILCS 227 and 425 ILCS 35**, and shall be construed in connection, with that law and any and all rules or regulations issued pursuant to that law.

**7-7-18**      **ENFORCEMENT.** The Fire Chief or designee, is authorized to enforce all provisions of this Code and, in addition to criminal sanctions or civil remedies, may revoke any permit issued pursuant to this Code upon any failure or refusal of the permittee to comply with the lawful orders and directives of the Fire Chief or designee, or to comply with any provisions of this Code or the requirements of the community development code relating to temporary structures.

**7-7-19**      **RECKLESS DISCHARGE OR USE PROHIBITED.** It is unlawful for any person to discharge or use fireworks in a reckless manner which creates a substantial risk of death or serious physical injury to another person or damage to the property of another.