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INTRODUCTION

(Cr. During Codification 2001)

5.01 PURPOSE AND INTENT.

(1) LICENSE AND PERMIT REQUIREMENTS. Unless otherwise specifically provided for in this code, licenses and permits required for carrying on a business or a trade within the Village of Brownsville shall be applied for, issued, revoked and terminated in accordance with the provisions of this chapter.

(2) APPLICATIONS. Every application for a license shall be made upon that form as shall be furnished by the Village Clerk/Treasurer. The application shall be verified and shall contain the name, place of residence, age, and occupation of the applicant, the purposes for which a license is desired, and the place where and the terms for which s/he proposes to carry on the business or trade to be licensed. A receipt of the Village Clerk/Treasurer showing a license fee has been paid must be presented with the application for a license where required.

(3) ISSUANCE. Unless otherwise specifically provided, licenses, when granted, shall only be issued by the Village Clerk/Treasurer and shall state the date thereof, the day from which it shall be in force, the name, place of residence, and place of business of the person to whom it is issued, the particular purpose and the time for which issued, and the amount of the license fee paid.

(a) The Village Clerk/Treasurer shall keep all such applications on file and shall keep a record of all licenses issued.

(b) Each license issued under this chapter shall be separately displayed on the premises or vehicle licensed.

(4) TERMINATION. Except where otherwise provided, every license or permit issued under this chapter shall terminate or expire on June 30 of each year.

(5) REVOCATION. Licenses or permits granted or issued under the provisions of this chapter may be revoked by the Village Board for causes as are provided herein or for causes as may be provided by State law or the other ordinances, regulations, or rules of the Village relating to the particular trade, occupation or business so licensed.

(6) LICENSE FEES UPON REVOCATION. No license fee shall be refunded if a license or permit is revoked for cause.

(7) TRANSFER OF LICENSES. No license may be transferred unless otherwise provided by state statutes, by ordinance or by action of the Village Board.

5.02 DEFINITIONS. Except as otherwise provided in this chapter the following words and phrases shall mean:

- (1)** Alcohol beverages means fermented malt beverages and intoxicating liquor.
- (2)** Amusement device shall mean: 1. Pool tables. 2. Billiard tables. 3. Electronic Games 4. Any other coin, token or slug operated machine which is used by the public as a game, entertainment, or amusement, whether or not registering a score, but not including music machines.
- (3)** Amusement arcade or amusement place shall mean any premises in which are located 5 or more amusement devices as defined in § 5.17.
- (4)** Automobile graveyard means an establishment or place of business which is maintained, used, or operated for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled motor vehicles or motor vehicle parts. Ten or more such vehicles constitute an automobile graveyard.
- (5)** Brewer means any person who manufactures fermented malt beverages for sale or transportation.
- (6)** Brewery premises means all land and buildings used in the manufacture or sale of fermented malt beverages at a brewer's principal place of business.
- (7)** Brownsville businesses means any permanent business currently established and being conducted in the Village of Brownsville.
- (8)** Campus has the meaning given under §36.05(3), Wis. Stats.
- (9)** Charitable organization shall include any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation or one purporting to be such.
- (10)** Clerk/Treasurer shall mean the Brownsville Village Clerk/Treasurer.
- (11)** Club means an organization, whether incorporated or not, which is the owner, lessee or occupant of a building or portion thereof used exclusively for club purposes, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent or athletic purpose but not for pecuniary gain and which only sells alcohol beverages incidental to its operation.

(12) Department means the Wisconsin Department of Revenue.

(13) Direct seller means any individual who, for himself/herself, or for a partnership, association or corporation, 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 or corporation and shall include, but shall not be limited to, peddlers, solicitors and transient merchants. The sale of goods includes donations required by the direct seller for the retention of goods by a donor or prospective customer.

(14) Fermented malt beverages means any beverage made by the alcohol fermentation of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated and degerminated grains or sugar containing 0.5% or more of alcohol by volume.

(15) Flea Market means a gathering of people for the purpose of trading or selling of merchandise

(16) Goods shall include personal property of any kind and shall include goods provided incidental to services offered or sold.

(17) Hotel means a hotel, as defined in §254.61(3), Wis. Stats., that is provided with a restaurant.

(18) Industrial activities mean those activities defined by s.84.31(2), Wis. Stats.

(19) Intoxicating liquor means all ardent, spirituous, distilled or vinous liquors, liquids or compounds, whether medicated, proprietary, patented or not, and by whatever name called, containing 0.5% or more of alcohol by volume, which are beverages, but does not include "fermented malt beverages".

(20) Junk means any old or scrap metal, metal alloy, synthetic or organic material, or waste, or any junked, ruined, dismantled or wrecked motor vehicle or machinery, or any part thereof.

(21) Junkyard means any place which is owned, maintained, operated or used for storing, keeping, processing, buying or selling junk, including refuse dumps, garbage dumps, automobile graveyards, scrap metal processors, auto-wrecking yards, salvage yards, auto-recycling yards, used auto parts yards and temporary storage of automobile bodies or parts awaiting disposal as a normal part of a business operation when the business will continually have like materials located on the premises, and sanitary landfills. This definition does not include litter, trash, and other debris scattered along or upon the highway, or temporary operations and outdoor storage of limited duration.

(22) Legal drinking age means 21 years of age.

(23) License means permission and authorization by the Village or an authorized official of the Village to carry on an occupation, perform some act or engage in some business activity under the provisions of this chapter.

(24) Manufacturer as used in §5.05(11), means a person, other than a rectifier, that ferments, manufactures or distills intoxicating liquor.

(25) Motor vehicle salvage dealer means a person who purchases and resells motor vehicles for wrecking, processing, scrapping, recycling or dismantling purposes or who carries on or conducts the business of wrecking, processing, scrapping or dismantling motor vehicles or selling parts of motor vehicles so processed.

(26) Motor vehicle salvage pool means a person who is engaged primarily in the business of selling or distributing damaged motor vehicles at wholesale, whether or not the motor vehicles are owned by that person.

(27) Municipality means a city, village or town.

(28) Peace officer means a sheriff, undersheriff, deputy sheriff, police officer, constable, marshal, deputy marshal or any employee of the department or of the department of justice authorized to act under this chapter.

(29) Peddlers shall include any person, whether a resident of the Village of Brownsville or not, who goes from house to house, from place to place, or from street to street, conveying or transporting goods, wares or merchandise or offering or exposing the same for sale, or making sales and delivering articles to purchasers.

(30) Permanent merchant means a direct seller who, for at least one year prior to the consideration of the application of §5.15 to said merchant. 1. Has continuously operated an established place of business in this Village. 2. Has continuously resided in this Village and now does business from his/her residence.

(31) Solicitor means any individual who, for himself/herself, or for a partnership, association or corporation, charitable or otherwise, solicits, asks for, or requests contributions either in the form of cash or merchandise, at any location other than the permanent business place or residence of said individual, partnership, association or corporation.

(32) Permit means any permit issued by the department under this chapter.

(33) Person means a natural person, sole proprietorship, partnership, limited liability company, corporation or association or the owner of a single-owner entity that is disregarded as a separate entity under Ch. 71, Wis. Stats.

(34) Premises means the area described in a license or permit.

(35) Primary source of supply means the manufacturer, the rectifier or the exclusive agent designated by the manufacturer or rectifier.

(36) Principal business means the primary activity as determined by analyzing the amount of capital, labor, time, attention and floor space devoted to each business activity and by analyzing the sources of net income and gross income. The name, appearance and advertising of the entity may also be taken into consideration if they are given less weight.

(37) Rectifier means any one of the following:

1. A person that rectifies, purifies or refines distilled spirits or wines by any process other than by original and continuous distillation from mash, wort or wash, through continuous closed vessels or pipes, until the manufacture thereof is complete.
2. A person who possesses any still or leach tub or keeps any other apparatus for refining distilled spirits.
3. A person who after rectifying and purifying distilled spirits, by mixing such spirits with any materials, manufactures any spurious, imitation or compound liquors for sale.
4. A distiller or any person under substantially the same control as a distiller who, without rectifying, purifying or refining distilled spirits, by mixing such spirits with any materials, manufactures any spurious, imitation or compound liquors for sale under the name of "whiskey", "brandy", "gin", "rum", "spirits", "cordials" or any other name.
5. A person who places intoxicating liquor in bottles or other containers.

(38) Regulation means any rule or ordinance adopted by a municipal governing body.

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(39) Restaurant means a restaurant, as defined in §254.61(5), Wis. Stats.

(40) Retailer means any person who sells, or offers for sale, any alcohol beverages to any person other than a person holding a permit or a license under this chapter.

(41) Scrap metal processor means:

1. A fixed location at which machinery and equipment are utilized for the processing and manufacturing of iron, steel or nonferrous metallic scrap into prepared grades and whose principal product is scrap iron, scrap steel or nonferrous metal scrap for sale for remelting purposes.

2. A motor vehicle salvage dealer who sells no motor vehicles or motor vehicle parts and whose business is limited to a fixed location at which machinery and equipment are utilized for the processing and manufacturing of iron, steel or nonferrous metallic scrap into prepared grades and whose principal product is scrap iron, scrap steel or nonferrous metal scrap for sale for remelting purposes.

(42) Sell, sold, sale or selling, when used in §5.03 through 5.06, means any transfer of alcohol beverages with consideration or any transfer without consideration if knowingly made for purposes of evading the law relating to the sale of alcohol beverages or any shift, device, scheme or transaction for obtaining alcohol beverages, including the solicitation of orders for, or the sale for future delivery of, alcohol beverages.

(43) Transient merchant shall include any person, firm or corporation whether as owner, agent, consignee or employee, whether a resident of the Village of Brownsville, or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within said Village and who, in furtherance of such purpose hires, leases, uses or occupies any building, structure, motor vehicle, trailer, tent, railroad box car, boat, public room in hotels, lodging houses, apartments, shops, or any street, alley or other place within the Village for exhibition and sale of such goods, wares and merchandise, either privately or at public auction; provided that such definition shall not be construed to include any person, firm or corporation who, while occupying such temporary location, does not sell from stock, but exhibits samples for the purpose of securing orders for future delivery only. The person, firm or corporation so engaged shall not be relieved from complying with the provisions of this section merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader or auctioneer.

(44) Transient businesses means a business not having an established business in the Village of Brownsville, such as a merchant who travels the country to sell merchandise. (See also §5.17 of this Code)

(45) Underage person means a person who has not attained the legal drinking age.

(46) Wholesaler, under §§5.04 and 5.05 means a person, other than a brewer, manufacturer or rectifier, who sells alcohol beverages to a licensed retailer or to another person who holds a permit or license to sell alcohol beverages at wholesale.

(47) Wine means products obtained from the normal alcohol fermentation of the juice or must of sound, ripe grapes, other fruits or other agricultural products, imitation wine, compounds sold as wine, vermouth, cider, berry, mead and sake, if such products contain 0.5% or more of alcohol by volume.

ALCOHOL BEVERAGES

(Recr. fr. Ch. 5.01, §§.010-.090, as amended by Ord 2000-2. Enacted during recodification 2001)

Revisor's Note: This subchapter was ch. 5.01, Village Code. Ch.79, Laws of 1981, created Ch. 125, Wis. Stats. The following amended this chapter of the statutes: 1981 c. 79, 235, 391; 1983 a. 27, 72, 74, 493, 494, 516; 1985 a. 302; 1987 a. 35, 301, 399; 1989 a. 31, 253; 1991 a. 39; 1993 a. 112, 259, 491; 1995 a. 23; 1995 a. 27 ss. 4117b, 4117c, 9154 (1); 1995 a. 225; 1997 a. 27, 283. These enactments made numerous changes in the Alcohol Beverage laws. Sec. 125.10, Wis. Stats., Authorizes any municipality to enact regulations incorporating any part of Ch. 125 and further authorizes prescribing additional regulations for the sale of alcohol beverages, not in conflict with the chapter. The municipality may prescribe forfeitures or license suspension or revocation for violations of any such regulations. However, regulations providing forfeitures or license suspension or revocation must be adopted by ordinance.

5.03 INTOXICATING LIQUORS AND FERMENTED MALT BEVERAGES.

(1) **PURPOSE AND INTENT.** The purpose of this subchapter is to regulate and control the issuance of permits and licenses in the uniform regulation of the sale of alcohol beverages within the corporate limits of the Village of Brownsville in order to promote the public health, safety, morals, prosperity, aesthetics and the general welfare of the Village.

(2) **STATE STATUTES ADOPTED.** Except as otherwise specifically provided in this subchapter, the statutory provisions in Ch. 125, Wis. Stats., providing uniform regulation of the sale of alcohol beverages, including penalties to be imposed and procedures for prosecution, are hereby adopted and by reference made a part of this section as if fully set forth herein. Any act required to be performed or prohibited by reference is required or prohibited by this section. Any future amendments, revisions or modifications of statutes incorporated herein are intended to be made a part of this subchapter in order to secure uniform statewide regulation of the sale of alcohol beverages. (Renum. and recr. fr. §5.01.010, to conform to uniformity requirements)

(3) **GENERAL LICENSING REQUIREMENTS.** (§§5.01.020-.040, repealed and recreated, codification 2001)

(a) License or Permit; When Required. No person may sell, manufacture, rectify, brew or engage in any other activity for which this subchapter provides a license, permit, or other type of authorization without holding the appropriate license, permit or authorization issued under this section.

(b) Licenses or Permits Issued in Violation of Subchapter. Except as otherwise specifically provided in Ch. 125, Wis. Stats., no license or permit may be issued to any person except as provided in this subchapter. Any license or permit issued in violation of this section is void.

(c) Applications for Licenses and Permits. Each application form shall require all of the following information:

1. A history of the applicant relevant to the applicant's fitness to hold a license or permit.
2. The kind of license or permit for which the applicant is applying.
3. The premises where alcohol beverages will be sold or stored or both.
4. If the applicant is a corporation, the identity of the corporate officers and agent. If the applicant is a limited liability company, the identity of the company members or managers and agents.
5. The applicant's trade name, if any.
6. Any other information required by this section.

(d) Place of Filing Applications.

1. Each application for a license, other than a manager's or operator's license, shall be sworn to by the applicant. The applicant shall file the application for a license with the Village Clerk/Treasurer
2. The applicant shall file the application for a permit with the Wisconsin Department of Revenue.

(e) Time of Filing and Issuance.

1. Except as provided in subs. 2. and 3., all applications for licenses to sell alcohol beverages shall be filed with the Village Clerk/Treasurer at least 15 days prior to the granting of the license.
2. For licenses issued under §125.26(6), Wis. Stats., for a picnic or other gathering lasting less than 4 days, the Village Board shall establish the time, prior to the granting of a license for same, by which the application shall be filed with the Village Clerk/Treasurer.

(f) Publication of Application for License. The Village Clerk/Treasurer shall publish each application for a Class "A", Class "B", "Class A", "Class B" or "Class C" license, except licenses under §§125.26(6) and 125.51(10), Wis. Scats., prior to issuance in a newspaper in accordance with the provisions of § 125.04(3)(g), Wis. Stats.

(g) Subsequent Changes. Within 10 days of any change in any fact set out in an application for a license or permit to sell alcohol beverages, the licensee or permittee shall file with the Village Clerk/Treasurer a written description of the changed fact.

(h) Records. 1. Any person may inspect applications for licenses to sell alcohol beverages within the Village of Brownsville..

2. The Village Clerk/Treasurer shall retain all applications made to the Village for licenses to sell alcohol beverages.

3. The Village Clerk/Treasurer may destroy all applications more than 4 years old which have been retained under sub. 2.

(i) List of Licensees. By July 15 of each year the Village Clerk/Treasurer shall mail to the Wisconsin Department of Revenue a list containing the name, address and trade name of each person holding a license issued by the Village, other than a manager's or operator's license or a license issued under §125.26(6), Wis. Stats., the type of license held and, if the person holding the license is a corporation or limited liability company, the name of the agent appointed under § 125.04(6), Wis. Stats .

(j) Fees Paid to Village Clerk/Treasurer. No license shall be issued hereunder until the applicant shall first have paid to the Village Clerk/Treasurer the fee or fees as herein required. On applications concerning premises where construction is not complete the fee shall be paid within 5 days of the granting of said license and upon payment of said fee said license shall remain in effect for the license year.

(4) QUALIFICATIONS FOR LICENSES AND PERMITS.

(a) Natural Persons. Licenses and permits related to alcohol beverages, issued to natural persons under this subchapter, may be issued only to persons who fulfill all of the following requirements:

1. Do not have an arrest or conviction record, subject to §§111.321, 111.322 and 111.335, Wis. Scats..

2. Have been residents of this state continuously for at least 90 days prior to the date of application.
3. Have attained the legal drinking age.
4. Have submitted proof under §77.61(11), Wis. Stats.

(b) Criminal Offenders. No license or permit related to alcohol beverages may, subject to §§111.321, 111.322 and 111.335, Wis. Stats., be issued under this section to any person who has habitually been a law offender or has been convicted of a felony unless the person has been duly pardoned.

(c) Corporations and Limited Liability Companies. No license or permit may be issued to any corporation or limited liability company unless that entity meets the qualifications under pars. (a)1. and 4. and (b), unless the agent of the entity appointed under §125.04(6), Wis. Stats., and the *officers* and directors, or members or managers, of the entity meet the qualifications of pars. (a)1. and 3. and (b) and unless the agent of the entity appointed under §125.04(6), Wis. Stats., meets the qualifications under par. (a)2. The requirement that the entity meet the qualifications under pars. (a) Land (b) does not apply if the entity has terminated its relationship with all of the individuals whose actions directly contributed to the conviction.

(d) Tax Delinquencies. No license shall be granted for operation on any premises upon which taxes or assessments or other financial claims of the Village are delinquent or unpaid., including unpaid forfeitures for any ordinance violations.

1. No initial or renewal license under this section shall be granted for any premise for which taxes, assessments or other claims to the state are delinquent and unpaid.
2. No initial or renewal license under this section shall be granted to any person delinquent in payment to the state of any taxes owed.

5.04 CLASSES OF LICENSE(S) AND FEES. There shall be the classes of licenses, as enumerated herein, which when issued by the Village Clerk/Treasurer under the authority of the Village Board, after payment of the appropriate fee as hereunder specified, shall permit the holder to sell, deal or traffic in fermented malt beverages or intoxicating liquor as provided herein and in the state statutes. The classes and denominations of licenses and the fees specified therefor shall be subject to annual review by the Village Board. The Village Board is hereby authorized to annually review said classes, denominations and the fees therefor and no later than March 15, in each year, after conducting a hearing on same, increase or decrease said fees by resolution as the

Board in its discretion deems to be reasonable, subject to the maximum limitations on said fees as set forth from time to time in the Wisconsin State Statutes. In the event said fees are not changed as provided for above, the fees shall remain the same as the prior year's fees.

(1) FERMENTED MALT BEVERAGES.

(a) Class "A" Licenses. A Class "A" license issued under §125.25, Wis. Stats. authorizes retail sales of fermented malt beverages for consumption off the premises where sold and in original packages, containers and bottles. A license may be issued after July 1. That license shall expire on the following June 30.

1. Class "A" licenses may be issued to any person qualified under § 125.04(5), Wis. Stats. except a person acting as an agent for or in the employ of another.
2. Beginning on May 5, 1994, a Class "A" license may not be issued to a person holding a wholesaler's license issued under §125.28, Wis. Stats. or to a person who has a direct or indirect ownership interest in a premises operating under a wholesaler's license issued under §125.28, Wis. Stats.
3. Notwithstanding subd. 2., a person who holds a Class "A" license and a wholesaler's license issued under §125.28, Wis. Stats. both of which licenses were issued before May 5, 1994, may, subject to §§125.04 and 125.12, Wis. Stats. renew and continue to hold both licenses.
4. The fee for a Class "A" license shall be determined by the Village Board in and by the adoption of a resolution providing for same. A license for less than 12 months shall be prorated according to the number of months or fraction thereof for which the license is issued.

(b) Class "B" Licenses. A Class "B" license issued under §125.26, Wis. Stats., is for the sale of fermented malt beverages from premises within the municipality and may authorize an official or body of the municipality to issue temporary Class "B" licenses under §125.26(6), Wis. Stats. A Class "B" license authorizes retail sales of fermented malt beverages to be consumed either on the premises where sold or off the premises. A license may be issued after July 1. That license shall expire on the following June 30. Persons holding a Class "B" license may sell beverages containing less than 0.5% of alcohol by volume without obtaining a license under §66.053(1), Wis. Stats.

1. Class "B" licenses may be issued to any person qualified under §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 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 subchapter.

2. Except as provided in §125.31, Wis. Stats. Class "B" licenses may not be issued to brewers.
 - a. Except as provided in §125.29, Wis. Stats. beginning on May 5, 1994, a Class "B" license may not be issued to a person holding a wholesaler's license issued under §125.28, Wis. Stats. or to a person who has a direct or indirect ownership interest in a premises operating under a wholesaler's license issued under §125.28, Wis. Stats.
 - b. Notwithstanding subd.2.a., a person who holds a Class "B" license and a wholesaler's license issued under §125.28, Wis. Stats. both of which licenses were issued before May 5, 1994, may, subject to §§125.04 and 125.12, Wis. Stats. renew and continue to hold both licenses.
 - c. If a person holding a Class "B" license and a wholesaler's license under subd. 2.b. fails to renew either license, is denied renewal of either license under §125.12, Wis. Stats. or has either license suspended or revoked under §125.12, Wis. Stats. the person is subject to subd 2.a.
 - d. Notwithstanding §§125.04(3)(a)3. and (9), Wis. Stats. a Class "B" license authorizes a person operating a hotel to furnish a registered guest who has attained the legal drinking age with a selection of fermented malt beverages in the guest's room which is not part of the Class "B" premises. Fermented malt beverages furnished under this subsection shall be subject to the restrictions and requirements of §125.26(2m), Wis. Stats.
3. Class "B" licenses shall particularly describe the premises for which issued and are not transferable, except as provided in §125.04(12), Wis. Stats. A Class "B" license is subject to revocation for violation of any of the terms or provisions thereof.
4. The fee for a Class "B" license issued hereunder may not exceed \$100 per year. The fee for a license for less than 12 months shall be prorated according to the number of months or fraction thereof for which the license is issued. Class "B" licenses may be issued at any time for a period of 6 months in any calendar year, for which 50% of the license fee shall be paid. Such licenses are not renewable during the calendar year in which issued.

5. Temporary Class "B" licenses may be issued to bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least 6 months before the date of application and to posts of veterans' organizations authorizing the sale of fermented malt beverages at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society.

a. The amount of the fee for the license shall be determined by the Village Board but may not exceed \$10.

b. The Village Board may authorize an official or body to issue temporary Class "B" licenses. Said official or body may, upon issuance of any temporary Class "B" license, authorize the licensee to permit underage persons to be on the premises for which the license is issued.

c. The Village Board may issue a temporary Class "B" license for premises that are covered by a "Class B" permit issued under §125.51 (5) (b) 2, Wis. Stats. if the applicant meets the requirements of this subsection.

(c) Class "B" Permit. A Class "B" permit issued under § 125.27, Wis. Stats.

(d) Industrial Fermented Malt Beverages Permit. A fermented malt beverages permit issued under §124.275, Wis. Stats.

(e) Wholesalers' Licenses. In accordance with §125-28, Wis. Stats. the Village Board may issue licenses to wholesalers for the sale of fermented malt beverages from premises within the Village. A wholesaler's license authorizes sales of fermented malt beverages only in original packages or containers to retailers or wholesalers, not to be consumed in or about the premises where sold. In the case of a foreign corporation or foreign limited liability company whose wholesale premises is located outside of this state, the wholesaler's license shall be issued by the governing body of the municipality in which some part of the wholesaler's business is conducted in this state. No additional license or permit is required for the solicitation of orders for sale to or by licensed wholesalers.

1. A wholesaler's license may be issued to any person qualified under § 125.04(5), Wis. Stats. except a person acting as an agent for, or in the employ of, another person. Notwithstanding §125.04(5)(a)5., Wis. Stats. a person is not required to complete a responsible beverage server training course to be qualified for a license under this section.

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2. Except as provided in subd. 3. and §125.29, Wis. Stats. beginning on May 5, 1994, a wholesaler's license may not be issued to any of the following:
 - a. A person holding one or more of the following licenses or permits:
 - i. A Class "A" license issued under §125.25, Wis. Stats.
 - ii. A Class "B" license issued under §125.26, Wis. Stats.
 - iii. A Class "B" permit issued under §125.27, Wis. Stats.
 - b. A person who has a direct or indirect ownership interest in a premises operating under one or more of the licenses or permits listed in [subps. a.i. to iv.](#)
 3. A person who holds a wholesaler's license and a license or permit specified in subd. 2.a., all of which licenses or permits were issued before May 5, 1994, may, subject to §§125.04 and 125.12,, Wis. Stats., renew and continue to hold all of the licenses or permits.
 4. If a person holding a wholesaler's license and a license or permit under subd. 1. fails to renew a license or permit, is denied renewal of a license or permit under §125.12, Wis. Stats. or has one of the licenses or permits suspended or revoked under §125.12, Wis. Stats. the person is subject to subd. 3. with respect to holding a license or permit of that type after the failure or denial of renewal or the revocation or suspension of the license or permit.
 5. The amount of the license fee shall be determined by the Village Board but may not exceed \$25 per year or fractional part thereof.
- (f) Brewers. Permits and licenses issued under §§125.29 and 125.30, Wis.Stats
- (g) Issuance of Operators' Licenses. 1. Authorization. The Village Board may issue operators' licenses for the purpose of complying with §§125.32 (2) and 125.68 (2), Wis. Stats. Operators' licenses may be issued only upon written application.
2. Validity. Operators' Licenses issued by the Village Board are valid only within the Village of Brownsville.
 3. Fee. The fee for an operator's license shall be as follows:
 - a. \$25.00 for a 2 year period and shall expire on June 30 of the second year for which issued.
 - b. \$15.00 for a 1 year period and shall expire on June 30.

4. Temporary License. The Village Board may issue a temporary operator's license under the terms of this subsection except that:
 - a. This license may be issued only to operators employed by, or donating their services to, nonprofit corporations.
 - b. No person may hold more than one license of this kind per year.
 - c. The license is valid for any period from one day to 14 days, and the period for which it is valid shall be stated on the license.
 - d. The fee for a temporary operator's license shall be \$5.00.
5. Provisional License. A provisional license may be issued only to a person who has applied for an operator's license under this subsection.
 - a. A provisional license may not be issued to any person who has been denied a license under this subsection.
 - b. The fee for a provisional license shall be \$15
 - c. A provisional license expires 60 days after its issuance or when a license under this subsection is issued to the holder, whichever is sooner.
 - d. The Village Clerk/Treasurer may revoke the license if s/he discovers that the holder of the license made a false statement on the application.
 - e. Except as provided in §125.17(6)(b), Wis. Stats. the Village Board may only issue an operator's license upon an applicant's successful completion of a responsible beverage server training course at any location that is offered by a technical college district and that conforms to curriculum guidelines specified by the technical college system board or a comparable training course that is approved by the Wisconsin Departments of Revenue or Education, or unless the applicant fulfills one of the requirements under §125.17(6)(a), Wis. Stats.

f. The Village Board shall issue a provisional operator's license to a person who is enrolled in a training course under par. a and who meets the standards established by the Village of Brownsville by ordinance, if any. The Village Board shall revoke said license if the applicant fails successfully to complete the course in which he or she enrolls.

(h) Issuance of Managers' Licenses.

1. Authorization. Under authority granted by §125.18(1), Wis. Stats., the Village Board may provide for the issuance of managers' licenses. Managers' licenses may not be required other than for the purpose of complying with §§125.32 (1) and 125.68 (1), Wis. Stats. Managers' licenses may be issued only upon written application.
2. Validity. Managers' licenses are valid only within the Village of Brownsville.
3. Fee. The fee for the manager's license shall be \$25 per year. The license shall be valid for no more than 1 year and shall expire on June 30.

(i) Provisional Retail Licenses. 1. The Village Clerk/Treasurer may issue a provisional retail license only to a person who has applied for a 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.

2. The fee for a provisional retail license shall be \$15.
3. A provisional retail license expires 60 days after its issuance or when the Class "A", Class "B", "Class A", "Class B" or "Class C" license is issued to the holder, whichever is sooner. The Village Clerk/Treasurer may revoke the license if it is discovered that the holder of the license made a false statement on the application.
4. Notwithstanding subd. 1., the Village Clerk/Treasurer may not issue a provisional "Class B" license if the municipality's quota under §125.51(4), Wis. Stats., prohibits the Village from issuing a "Class B" license.
5. No person may hold more than one provisional retail license for each type of license applied for by the holder per year. A Class "B" license authorizes retail sales of fermented malt beverages to be consumed either on the premises where sold or off the premises. A license may be issued after July 1. That license shall expire on the following June 30. Persons holding a Class "B" license may sell beverages containing less than 0.5% of alcohol by volume without obtaining a license under §66.053 (1), Wis. Stats.

(2) INTOXICATING LIQUOR

(a) Village Authority. Under authority contained in §125.51(1)(a), Wis. Stats., the Village Board may grant and issue "Class A" and "Class B" licenses for retail sales of intoxicating liquor, and "Class C" licenses for retail sales of wine, from premises within the Village to persons entitled to a license under this subchapter as deemed proper and may authorize an official or body of the Village to issue temporary "Class B" licenses under §125.51(10), Wis. Stats.. No "Class B" license may be issued to a winery under §125.51(3) (am), Wis. Stats. unless the winery has been issued a permit under §125.53, Wis. Stats. and the winery is capable of producing at least 5,000 gallons of wine per year in no more than 2 locations.

(b) Prohibited Conduct by Village Board. No member of the Village Board may sell or offer to sell to any person holding or applying for a license under this section any bond, material, product or thing which may be used by the licensee in carrying on the business subject to licensure.

(c) Annual Review by Village Board. 1. The Village Board, or a duly authorized committee of the Village Board, shall meet not later than May 15 annually, and be in session from day to day thereafter so long as may be necessary, for the purpose of acting upon license applications filed with it on or before April 15.

2. The Village Board or the committee shall grant, issue or deny each application not later than June 15 for the ensuing license year. Licenses may be granted for issuance at a later date when the applicant has complied with all requirements for the issuance of the license.
3. The Village Board or the committee may accept and act upon any application filed at any other time. The Village Board or the committee may not deny an application for renewal of an existing license unless a statement of the reason for the denial is included in its clerk's minutes.

(d) Retail "Class A" license.

1. A "Class A" license authorizes the retail sale of intoxicating liquor for consumption off the premises where sold and in original packages and containers.
2. Except as provided under § 125.69, Wis. Stats., "Class A" licenses may be issued to any person qualified under s. 125.04 (5), except a person acting as an agent for or in the employ of another.

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3. "Class A" licenses shall particularly describe the premises for which issued and are not transferable, except as provided in §125.04 (12), Wis. Stats.
 4. The annual fee for a "Class A" license shall be determined by the municipal governing body and shall be the same for all "Class A" licenses, except that the minimum fee is \$50 and the maximum fee is \$500.
- (e) Retail "Class B" License. The Village Board, through enactment by separate ordinance, may elect to issue a "Class B" license under §§125.51(3)(a) and (am) or under §125.51(3)(b), Wis. Stats. (em) The election made by the Village Board under par. (e) shall by reference be made a part of this subchapter with the same force and effect as if fully set forth herein.
1. Notwithstanding par.(em) and §§125.04(3)(a)3. and (9), Wis. Stats., a "Class B" license authorizes a person operating a hotel to furnish a registered guest who has attained the legal drinking age with a selection of intoxicating liquor in the guest's room which is not part of the "Class B" premises. Intoxicating liquor furnished under this subsection shall be subject to the restrictions and requirements of §125.55(bm), Wis. Stats.
 2. Except as provided under §125.69, Wis. Stats. a "Class B" license may be issued to any person qualified under §125.04(5), Wis. Stats. except a person acting as an agent for or in the employ of another.
 3. a. Except as provided in subds. b. and c., the annual fee for a "Class B" license shall be the same for all "Class B" licenses, except that the minimum fee shall be \$50 and the maximum fee shall be \$500. The minimum fee does not apply to licenses issued to bona fide clubs and lodges situated and incorporated in the state for at least 6 years.
b. The fee for an initial issuance of a reserve "Class B" license, as defined in §125.51(4)(a) 4., [Wis. Stats. is](#) established in an amount not less than \$10,000, except that the fee for an initial issuance of a reserve "Class B" license to a bona fide club or lodge situated and incorporated in the state for at least 6 years is the fee established under subd. 3.a. for such a club or lodge. The fee under this subdivision is in addition to any other fee required under this subchapter or Ch. 125, Wis. Stats. The annual fee for renewal of a reserve "Class B" license, as defined in § 125.51(4)(a)l ., [Wis. Stats. is](#) the fee established under subd. 3.a.

c. The Village Board shall establish the annual fee for a "Class B" license issued under §125.51(4)(v), Wis. Stats. The initial fee may be different from the annual fee to renew the license.

d. A "Class B" license may be issued only to a holder of a retail Class "B" license to sell fermented malt beverages unless the "Class B" license is the kind of "Class B" license specified under §125.51(3)(am), Wis. Stats.

4. The quotas on "Class B" licenses issued by the Village under the provisions of this paragraph shall be determined and established in accordance with §125.51(4), Wis. Stats.

5. In accordance with §125.51(3)(e)2., Wis. Stats., the initial fee of \$10,000 for an initial issuance of a reserve "Class B" license is hereby established.

(f) Retail "Class C" License. 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. In this subsection "barroom" means a room that is primarily used for the sale or consumption of alcohol beverages.

1. A "Class C" license may be issued to a person qualified under §125.04(5), Wis. Stats. for a restaurant in which the sale of alcohol beverages accounts for less than 50% of gross receipts and which does not have a barroom if the Village's quota under §125.51(4), Wis. Stats. prohibits the issuing a "Class B" license to that person. A "Class C" license may not be issued to a foreign corporation, a foreign limited liability company or a person acting as agent for or in the employ of another.

2. The annual fee for a "Class C" license shall be determined by the municipal governing body issuing the license. The fee shall not exceed \$100 and shall be the same for all "Class C" licenses.

(g) Retail "Class B" Permits. A retail "Class B" permit issued under §125.51(5), Wis. Stats.

(h) 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.

(i) Licenses for Less than One Year. 1. A license may be issued after July 1 in any license year. The license shall expire on the following June 30. The fee for the license shall be prorated according to the number of months or fractions thereof remaining until the following June 30.

2. Licenses valid for 6 months may be issued at any time. The fee for the license shall be 50% of the annual license fee. The license may not be renewed during the calendar year in which issued.

(j) Temporary Licenses. Notwithstanding §125.68 (3), Wis. Stats. temporary "Class B" licenses may be issued under §125.51(10), Wis. Stats.

(k) Intoxicating Liquor Permits. _____ See permits issued under Subch. III of Ch. 125, Wis. Stats.

5.05 GENERAL RESTRICTIONS AND REQUIREMENTS.

(1) MANAGERS' LICENSES; "CLASS B" AND "CLASS C" PREMISES.

(a) If the Village Board elects to issue managers' licenses under §125.18, [Wis. Stats. no](#) person may manage premises operating under a "Class B" license or permit or a "Class C" license unless the person is the licensee or permittee, an agent of a corporation or limited liability company appointed as required by § 125.04(6), Wis. Stats. or the holder of a manager's license.

(b) A person manages premises if that person has responsibility or authority as provided for in §§125.68(l)(a)1. through 3., Wis. Stats.

(2) OPERATORS' LICENSES; "CLASS A", "CLASS B" OR "CLASS C" PREMISES.

Except as provided under § 125.07(3)(a) [10. Wis. Stats. no](#) premises operated under a "Class A" or "Class C" license or under a "Class B" license or permit may be open for business unless there is upon the premises either the licensee or permittee, the agent named in the license or permit if the licensee or permittee is a corporation or limited liability company, or some person who has an operator's license and who is responsible for the acts of all persons selling or serving any intoxicating liquor to customers., For the purpose of this subsection, any person holding a manager's license issued under §125.18, Wis. Stats. or any member of the licensee's or permittee's immediate family who has attained the age of 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 or sell alcohol beverages in any place operated under a "Class A" or "Class C" license or under a "Class B" license or permit unless he or she has an operator's license or is at least 18 years of age and is under the immediate supervision of the licensee, permittee or agent or a person holding an operator's license, who is on the premises at the time of the service.

(2m) USE BY ANOTHER PROHIBITED.

(a) No person may allow another to use his or her "Class A" or "Class C" license or "Class B" license or permit to sell alcohol beverages.

(b) The license or permit of a person who violates par. (a) shall be revoked.

(3) RESTRICTIONS ON LOCATION. No "Class A" or "Class B" license or permit may be issued for premises the main entrance of which is less than 300 feet from the main entrance of any public or parochial school, hospital or church, except that this prohibition may be waived by a majority vote of the governing body of the municipality in which the premises is located. The distance shall be measured by the shortest route along the highway from the main entrance of the school, church or hospital to the main entrance of the premises covered by the license or permit. The prohibition in this subsection does not apply to any of the following:

(a) Premises covered by a license or permit on June 30, 1947.

(b) Premises covered by a license or permit prior to the occupation of real property within 300 feet thereof by any school, hospital or church building.

(c) A restaurant located within 300 feet of a church or school. This paragraph shall only apply to restaurants in which the sale of alcohol beverages accounts for less than 50% of their gross receipts.

(4) CLOSING HOURS. (Was §5.01.017, as amended by Ord. 20002,12/13/00, codification 2001)

(a) Wholesalers. No premises for which a wholesale intoxicating liquor permit has been issued may remain open for the sale of intoxicating liquor between the hours of 5 p.m. and 8 a.m., except on Saturday the premises may remain open until 9 p.m.

(b) "Class A" No premises for which a "Class A" license or permit has been issued may remain open for the sale of intoxicating liquor between the hours of 9 p.m. and 6 a.m. Between midnight and 6:00 A.M., no person shall sell any fermented malt beverages at a Class "A" licensed premises in an original unopened package, bottle or container, or for consumption away from the premises where sold.

(c) "Class B" and "Class C" Retailers.

1. No premises for which a "Class B" license or permit or a "Class C" license has been issued may remain open between the hours of 2 a.m. and 6 a.m., except as otherwise provided in this subdivision and subd. 3. On any January 1 only, premises operating under a "Class B" license or permit are not required to close. On Saturday and Sunday, no premises shall remain open between 2:30 a.m. and 6 a.m. This subdivision does not apply to a "Class B" license issued to a winery under §125.51(3)(am), Wis. Stats.

2. Between 12 midnight and 6 a.m. no person may sell intoxicating liquor on "Class B" licensed premises in an original unopened package, container or bottle or for consumption away from the premises. The Village Board may, by ordinance, impose more restrictive hours than are provided in this subdivision. This subdivision does not apply to a "Class B" license issued to a winery under s. 125.51(3)(am), Wis. Stats.

2m.No premises for which a "Class B" or license has been issued under § 125.51(3)(am), Wis. Stats., may remain open for the sale of intoxicating liquor between the hours of 9 p.m. and 8 a.m.

3. Hotels and restaurants the principal business of which is the furnishing of food, drinks or lodging to patrons, bowling centers, indoor horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business but may not sell intoxicating liquor during the closing hours under subd. 1.

(5) RESTAURANT SANITATION RULES. No applicant may obtain a "Class B" license or permit or a "Class C" license unless the premises complies with the rules promulgated by the Wisconsin Department of Health and Family Services governing sanitation in restaurants. However, said department may not restrict the serving of cheese without charge in individual portions to customers as permitted by §254.61 (5), Wis. Stats.

(6) SALE FROM ORIGINAL CONTAINER.

(a) A person convicted of any of the following prohibited activities shall be fined not less than \$150 nor more than \$500 or imprisoned not less than 60 days nor more than 6 months or both:

1. Diluting any intoxicating liquor for purposes of sale as undiluted intoxicating liquor.

2. Refilling any original container which had previously been used for intoxicating liquor containing 21% or more of alcohol by volume.
3. Possessing diluted intoxicating liquor or refilled original containers on any premises covered by a "Class A" or "Class C" license or "Class B" license or permit.

(b) Possession of an original container which contains diluted intoxicating liquor or which has been refilled is prima facie evidence of intent to violate this subsection.

(7) LABELS; CONTENTS; PACKAGING. See §125.68(9), Wis. Stats.

(8) ADDITIONAL RESTRICTIONS. In addition to the restrictions and requirements imposed by the provisions of Ch. 125, Wis. Stats. and those provisions appearing elsewhere in this subchapter, the following restrictions and requirements shall apply to the issuance of licenses or permits under this subchapter:

(a) Intoxicating Liquor: Sale to Underage Person Prohibited. No license or permit holder hereunder and no keeper of any place of any name whatsoever for the sale of intoxicating liquors shall sell, vend, or in any way deal or traffic in, give away any such liquors in any quantity whatsoever to or with any person under the age of 21 years, whether upon written order of a parent or guardian, or in any other manner whatsoever.

(b) Intoxicating Liquor: Conditions of License. All retail Class "A" and "B" licenses granted hereunder shall be granted subject to the following conditions, and all other conditions of this code, and subject to all other governing state laws and the ordinances and regulations of this Village applicable thereto:

1. Every applicant procuring a license hereby consents to the entry of any peace officer as defined in Ch. 176, Wis. Stats., or other public officers of the Village, at all reasonable hours for the purpose of inspection and search, and consents to the removal from the premises of all things and articles there had in violation of Village ordinances or state laws and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such purposes and offenses.
2. No retail Class "B" Licensee shall employ any person under 18 years of age to sell or serve intoxicating liquors in any part of the licensed premises. No intoxicating liquor shall be sold to any person under the age of 21 years.
3. No club shall sell any intoxicating liquor except to members and guests invited by members.

4. 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 said premises.
- 5 No gambling or game of chance of any sort shall be permitted in any form upon the licensed premises.

(c) Requirements for License. No license or permit under this subchapter shall be issued to any person who is not 18 years of age or over, of good moral character, a citizen of the United States and the state, and who has not resided in the state continuously for at least one year prior to application. No license shall be issued to any person who has been a habitual petty law offender or convicted of a crime under the laws of this state punishable by imprisonment in a state prison unless such person has been pardoned. This section shall not apply to Wisconsin corporations, but shall apply to all officers and directors of such corporations.

(d) Restrictions on Corporations.

1. Responsible Person. No corporation organized under the laws of this state or any other state or foreign country shall be given a license to sell in any manner any intoxicating liquor, unless such corporation shall have first appointed, in such a manner as the state treasurer shall by regulation prescribe, as agent, a citizen of the United States.
2. Vested Authority To Act. The responsible person for any such corporation hereunder shall have vested in him or her, by properly authorized and executed written delegation, the full authority and control of the premises described in the license of such corporation and of the conduct of all business therein relative to intoxicating liquor as the licensee itself could in any way have and exercise if it were a natural person and resident in the state, nor unless such agent is, with respect to his or her character and record and reputation, satisfactory to the state treasurer.

(e) Effect of Revocation of License. No license shall be issued for any premises if a license covering such premises has been revoked within 6 months prior to application. No license shall be issued to any person who has had a license issued pursuant to this subchapter revoked within 12 months prior to application.

(f) Inspection of Application and Premises. The Village Clerk/Treasurer shall notify the health officer, building inspector and the chief of police of all license and permit applications, and these officials shall inspect or cause to be inspected each application and premises to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto; and, to assess the applicant's fitness for the trust to be imposed.

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1. These officials shall furnish to the Village Board in writing the information derived from such investigation.
2. No license or permit provided for in this chapter shall be issued without the approval of a majority of the Village Board, and no license shall be renewed without a reinspection of the premises and report as required by this subsection. (Recr. Fr. 5.01.040)

(g) Transferability. Every license or permit issued pursuant to this subchapter for the sale of fermented malt beverages or intoxicating liquor may, upon authority so granted by the Village Board, and upon payment of a fee as shall, from time to time be established by the Village Board, be transferred from one premises to another within the Village, but no licensee shall be entitled to more than one transfer in any one license year.

1. The application and proceedings for such transfer shall be made and had in the same form and manner as the original application.
2. Whenever a license is transferred the Village Clerk/Treasurer shall forthwith notify the Department of Revenue of such transfer.

(h) Obstructing View of Premises.

1. Full And Complete View. No premises licensed for the sale of intoxicating liquor at retail shall, during the days they are required to close or during the hours in which the sale of liquor is prohibited, obstruct by the use of curtains, blinds, screens or in any other manner, a full and complete view of the interior from the outside.
2. Proper and Adequate Lighting. During Hours of Sales. During the hours in which the sale of intoxicating liquor is permitted the premises shall be properly and adequately lighted. There shall be no partition, box, stall, screen, curtain or any other device which shall obstruct the view of said room from the general observations of persons; provided, however, that partitions, subdivisions or panels not higher than forty eight inches from the floor shall not be construed as in conflict with the foregoing; and provided, however, retail Class "B" licenses shall entitle the holder thereof to serve such beverages in a separate room at banquets or dinners.

(j) Retail Class "B" Issued Only For Street Level. (Recr. fr. 5.01.040(I)) Retail Class "B" licenses shall be issued only for that portion of the premises located on the street level, except to clubs, lodges, societies and associations holding a picnic license issued under §125.27, Wis. Stats. This subsection shall not prevent the sale of beverages in the original container by hotels to bona fide guests in rooms rented by them. The village board may grant exceptions to this provision, and may impose such conditions to any exceptions granted.

(k) Retail Class "B" Sales On Credit Prohibited. (Recr. fr. 5.01.050(B)) No retail Class "B" licensee shall sell or dispense intoxicating liquors or fermented malt beverages to any person on credit except credit extended by a hotel to a resident guest, or by a club to a bona fide member

(9) UNDERAGE AND INTOXICATED PERSONS; PRESENCE ON LICENSED PREMISES; POSSESSION; PENALTIES. (Recr. fr. 5.01.080)

(a) Restrictions Relating To Underage Persons.

1. No person may procure for, sell, dispense or give away any alcohol beverages to any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.
2. No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.
3. No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the adult or under the adult's control. This subdivision does not apply to alcohol beverages used exclusively as part of a religious service.
4. No adult may intentionally encourage or contribute to a violation of subd. 1. or 2.

(b). Penalties.

1. In this subsection, "violation" means a violation of this subsection if the violation results in an imposition of a forfeiture or a conviction. For purposes of determining previous violations under subd. 2., the 30-month period shall be measured from the dates of violations that resulted in an imposition of a forfeiture or a conviction. For the purpose of determining whether or not a previous violation has occurred, if more than one violation occurs at the same time all those violations shall be counted as one violation.

2. A person who commits a violation may be:
 - a. Required to forfeit not more than \$500 if the person has not committed a previous violation within 30 months of the violation.
 - b. Fined not more than \$500 or imprisoned for not more than 30 days or both if the person has committed a previous violation within 30 months of the violation.
 - c. Fined not more than \$1,000 or imprisoned for not more than 90 days or both if the person has committed 2 previous violations within 30 months of the violation.
 - d. Fined not more than \$10,000 or imprisoned for not more than 9 months or both if the person has committed 3 or more previous violations within 30 months of the violation.
3. A court shall suspend any license or permit issued under this chapter to a person for:
 - a. Not more than 3 days, if the court finds that the person committed a violation within 12 months after committing one previous violation;
 - b. Not less than 3 days nor more than 10 days, if the court finds that the person committed a violation within 12 months after committing 2 other violations; or
 - c. Not less than 15 days nor more than 30 days, if the court finds that the person committed the violation within 12 months after committing 3 other violations.
 - d. The court shall promptly mail notice of a suspension under this paragraph to the department and to the Village Clerk/Treasurer and to the clerk of each municipality which has issued a license or permit to the person.
 - e. A person who holds a Class "A" license, a Class "B" license or permit, a "Class A" license or a "Class B" license or permit who commits a violation is subject to subd. 2.c. but is not subject to subd. 2.b. or §125.11, Wis. Stats.
 - f. Only one penalty may be imposed under this paragraph for each underage person who is provided alcohol beverages contrary to this section.

(10) PURCHASE, RECEIPT OR POSSESSION OF INTOXICATING LIQUOR OR FERMENTED MALT BEVERAGES BY UNDERAGE PERSON. No person under the legal drinking age shall purchase or receive from any person, or have in his possession, any intoxicating liquor. No underage person shall purchase or receive from any person, or have in his possession, any fermented malt beverage unless accompanied by his or her parent, legal guardian or spouse who has attained the legal drinking age .

(11) INTOXICANTS IN VEHICLE BY UNDERAGE PERSONS. (This subsection repeals §5.01.080(C), codification 2001)

(a) No underage person, as defined under §125.02(20m), Wis. Stats., may knowingly possess, transport or have under his or her control any alcohol beverage in any motor vehicle unless the person is employed by a brewer, an alcohol beverage licensee, wholesaler, retailer, distributor, manufacturer or rectifier and is possessing, transporting or having such beverage in a motor vehicle under his or her control during his or her working hours and in the course of employment, as provided under § 125.07(4)(bm), Wis. Stats.

(b) Any violation of this subsection by an underage person driving or operating or on duty time with respect to a commercial motor vehicle shall be punished under §346.65 (2u), Wis. Stats..

(12) POSSESSION OF ALCOHOL BEVERAGES ON SCHOOL GROUNDS PROHIBITED. (This subsection repeals §5.01.080(D), codification 2001)

(a) In this subsection:

1. "Motor vehicle" means a motor vehicle owned, rented or consigned to a school.
2. "School" means a public, parochial or private school which provides an educational program for one or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school or high school.
3. "School administrator" means the person designated by the governing body of a school as ultimately responsible for the ordinary operations of a school.
4. "School premises" means premises owned, rented or under the control of a school.

(b) Except as provided by par. (c) no person may possess or consume alcohol beverages:

1. On school premises;
2. In a motor vehicle, if a pupil attending the school is in the motor vehicle; or
3. While participating in a school-sponsored activity.

(c) Alcohol beverages may be possessed or consumed on school premises, in motor vehicles or by participants in school-sponsored activities if specifically permitted in writing by the school administrator consistent with applicable laws, village and county ordinances and school board policies.

(d) A person who violates this subsection is subject to a forfeiture of not more than \$200, except that §§125.07(4)(c) and (d) and §938.344, Wis. Stats., provide the penalties applicable to underage persons.

5.06 REVOCATION AND SUSPENSION OF INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGE LICENSES. (Recr. fr. §5. 01.090)

(1) **PROCEDURE.** Except as otherwise provided herein, the provisions of §125.12, Wis. Stats., shall be applicable to proceedings for the revocation or suspension of all intoxicating liquor or fermented malt beverage licenses or permits granted under this chapter. Revocation or suspension proceedings may be instituted by the Village Board upon its own motion by adoption of a resolution.

(2) **REPOSSESSION OF LICENSE OR PERMIT.** Whenever any license or permit under §§5.03, 5.04 and 5.05 shall be revoked or suspended by the Village Board, Village President, Chief of Police or action of any court, the Village Clerk/Treasurer shall notify the licensee or permittee of such suspension or revocation and notify the Chief of Police, who shall take physical possession of the license or permit wherever it may be found and file it in the Village Clerk/Treasurer's office.

5.07 VIOLATIONS AND PENALTIES. Except as provided elsewhere in state statute or in this code, the penalty for a violation of any of the provisions of this subchapter shall be as provided in §125.11, Wis. Stats. A separate offense shall be deemed committed on each day on which a violation occurs or continues.

(1) **GENERAL PENALTY.** Any person who violates any provision of this subchapter for which a specific penalty is not provided, shall be fined not more than \$1,000 or imprisoned for not more than 90 days or both. Any license or permit issued to the person under this subchapter may be revoked by the court.

(2) **FELONY.** If a person is convicted of a felony under this subchapter, in addition to the penalties provided for the felony, the court shall revoke any license or permit issued hereunder to said person.

NONINTOXICATING BEVERAGES AND SODA WATER BEVERAGES

(Created during codification 2001)

Revisor Note: The Village provisions governing the regulation of non-intoxicating beverages and soda water beverages were previously incorporated into Title 5, Licenses and Permits, Village Code. The provisions of this section are enacted to conform to §66.053, Wis. Stats.

5.10 NONINTOXICATING AND SODA WATER BEVERAGES**(1) NONINTOXICATING BEVERAGES.**

(a) Authority . In accordance with §66.053(1)(a), Wis. Stats., the Village Board may grant licenses to such persons as they deem proper for the sale of beverages containing less than one-half of one per centum of alcohol by volume to be consumed on the premises where sold and to manufacturers, wholesalers, retailers and distributors of such beverages.

(b) License Fees.

1. A license fee of not less than \$5 nor more than \$50, as shall be fixed by resolution adopted by the Village Board, shall be paid, except that where such beverages are sold, not to be consumed on the premises, the license fee shall be \$5.
2. Such license as shall be issued by the Village Clerk/Treasurer, shall designate the specific premises for which granted and shall expire the thirtieth day of June thereafter.
3. The full license fee shall be charged for the whole or a fraction of the year.
4. No such beverages shall be manufactured, sold at wholesale or retail or sold for consumption on the premises, or kept for sale at wholesale or retail, or for consumption on the premises where sold without such license as required by this section.

(c) Transferability.

1. In case of removal of the place of business from the premises designated in the license to another location in the Village within the license period, the licensee shall give notice of such change of location, and the license shall be amended accordingly without payment of additional fee.
2. No license issued under this section shall be transferable from one person to another.

(d) Residency. No license or permit may be granted to any person, unless to a domestic corporation or domestic limited liability company, not a resident of this state and of the Village, nor, subject to §§111.321, 111.322 and 111.335, Wis. Stats., to any person who has been convicted of a felony, unless the person has been restored to civil rights.

(e) Regulation Authority. In addition to the requirements imposed hereunder, the Village Board, under authority granted by §66.053(1)(c), Wis. Stats., by resolution or ordinance may adopt such other regulations as it may deem reasonable and necessary to regulate the location of licensed premises, the conduct thereof, the sale of beverages containing less than one-half of one per centum of alcohol by volume and the revocation of any license or permit.

(2) SODA WATER BEVERAGES.

(a) Authority . In accordance with §66.053(2), Wis. Stats., the Village Board may grant licenses to such persons as they deem proper for the sale of soda water beverages, as defined in §97.34, Wis. Stats., to be consumed on or off the premises where sold.

(b) License Fee.

1. Such license fee shall be fixed by resolution of the Village Board, but shall not exceed \$5.
2. The license shall be issued by Village Clerk/Treasurer and shall designate the specific premises for which granted and shall expire on the thirtieth day of June thereafter.

(c) Regulation Authority. The Village Board shall have authority by resolution or ordinance to adopt such regulations as it may deem reasonable and necessary regarding the location of licensed premises, the conduct thereof and the revocation of any such license.

(3) GENERAL REQUIREMENTS. (Recr. fr. §5.01.020)

(a) Licenses When Required. No person, except as herein provided, shall distribute, vend, sell, offer or keep for sale at retail or wholesale, deal or traffic in, or, to evade any law or ordinance, give away any non-intoxicating beverage or soda water beverage, or cause the same to be done without having procured a license or permit as provided in this section, nor without complying with all the provisions of this section and all statutes, ordinances and regulations of the State and Village applicable thereto.

(b) Separate License Required For Each Place Of Sale. A separate license shall be required for each stand, place, room or enclosure or for each suite of rooms or enclosures which are in direct connection or communication where intoxicating liquor or fermented malt beverages or non-intoxicating beverages soda water beverages are kept, sold or offered for sale; and, no license shall be issued to any person to possess, sell or offer for sale any non intoxicating beverage or soda water beverage in any dwelling house, flat or residential apartment.

GENERAL PROVISIONS PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

Revisor Note: The Village provisions governing the regulation of peddlers, solicitors and transient merchants were previously in Title 5, Licenses and Permits, Village Code. The provisions of this section are enacted under §66.083, Wis. Stats., and conforming to §130.065, Wis. Stats., 1987-88. The former provisions of §§5.02.010 to and including 5.02.090 are repealed in their entirety effective codification 2001.

5.15 PEDDLERS, SOLICITORS, CANVASSERS AND TRANSIENT MERCHANTS.

(1) STATUTORY AUTHORITY. Pursuant to the authority contained in §66.083, Wis. Stats. the Village Board of Brownsville enacts this section to regulate and control:

(a) The retail sales, other than auction sales, made by transient merchants, as defined in §130.065(lm), 1987 Wis. Stats.

(b) The direct sales or solicitations within the Village by direct sellers or solicitors.

(2) REGISTRATION REQUIRED. It shall be unlawful for any direct seller or solicitor to engage in direct sales or solicitations within the Village of Brownsville without being registered for that purpose as provided herein. It shall, likewise, be unlawful for any direct seller or solicitor to sell to a permanent merchant within the Village of Brownsville without first being registered for that purpose as further provided herein.

(3) DEFINITIONS. The following definitions shall apply to this section:

(a) Direct Seller. Direct seller means any individual who, for themselves, or for a partnership, association or corporation, 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 or corporation and shall include, but shall not be limited to, peddlers, solicitors and transient merchants. The sale of goods includes donations required by the direct seller for the retention of goods by a donor or prospective customer.

(b) Permanent Merchant. Permanent merchant means a direct seller who, for at least one year prior to the consideration of the application of this section to said merchant:

1. Has continuously operated an established place of business in this Village.

2. Has continuously resided in this Village and now does business from his/her residence.

(c) Solicitor. Solicitor means any individual who, for himself/herself, or for a partnership, association or corporation, charitable or otherwise, solicits, asks for, or requests contributions either in the form of cash or merchandise, at any location other than the permanent business place or residence of said individual, partnership, association or corporation.

(d) Goods. Goods shall include personal property of any kind and shall include goods provided incidental to services offered or sold.

(e) Charitable Organization. Charitable organization shall include any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation or one purporting to be such.

(f) Clerk/Treasurer. Clerk shall mean the Brownsville Village Clerk/Treasurer.

(g) Transient Merchant. Transient merchant shall include any person, firm or corporation whether as owner, agent, consignee or employee, whether a resident of the Village of Brownsville, or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within said Village and who, in furtherance of such purpose hires, leases, uses or occupies any building, structure, motor vehicle, trailer, tent, railroad box car, boat, public room in hotels, lodging houses, apartments, shops, or any street, alley or other place within the Village for exhibition and sale of such goods, wares and merchandise, either privately or at public auction; provided that such definition shall not be construed to include any person, firm or corporation who, while occupying such temporary location, does not sell from stock, but exhibits samples for the purpose of securing orders for future delivery only. The person, firm or corporation so engaged shall not be relieved from complying with the provisions of this section merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader or auctioneer.

(h) Peddlers. Peddlers shall include any person, whether a resident of the Village of Brownsville or not, who goes from house to house, from place to place, or from street to street, conveying or transporting goods, wares or merchandise or offering or exposing the same for sale, or making sales and delivering articles to purchasers.

- (4) EXEMPTIONS.** The following shall be exempt from all provisions of this section:
- (a)** Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes
 - (b)** Any person selling goods at wholesale to dealers in such goods.
 - (c)** Any state resident selling produce or other perishable products at retail or wholesale.
 - (d)** Any permanent merchant or employee thereof who takes orders away from the established place of business for goods regularly offered for sale by such merchant within the county and who delivers such goods in their regular course of business.
 - (e)** Any person who has an established place of business where the goods being sold are 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)** 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)** Any person selling or offering for sale a service unconnected with the sale or offering for sale of goods.
 - (h)** 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)** 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 Clerk/Treasurer proof that such charitable organization is registered under §440.41, Wis. Stats. Any charitable organization not registered under said statute or which is exempt from that statute's registration requirements, shall be required to register under this section.
 - (j)** Any person who claims to be a permanent merchant, but against whom a complaint has been made to the Village Clerk/Treasurer that such person is a transient merchant; provided that there is submitted to the Village Clerk/Treasurer, proof that such person has leased for at least one year, or purchased, the premises from which he/she is conducting business, or proof that such person has conducted such business in the Village for at least one year prior to the date the complaint was made.

Chapter 5

BUSINESS REGULATIONS 5.15(4)(k)

(k) Any person or group participating in a special event sanctioned by the Village.

(5) REGISTRATION. Applicants for registration must complete and return to the Chief of Police a registration form as shall be furnished by the Village Clerk/Treasurer which shall require the following:

(a) Name, permanent address and telephone number.

(b) Age, height, weight, color of hair and eyes.

(c) Name, address and telephone number of the person, firm, association or corporation that the direct seller or solicitor represents or is employed by, or whose merchandise is being sold or solicited for.

(d) Temporary address and telephone number from which business will be conducted, if any.

(e) Nature of the business to be conducted and a brief description of the goods or services offered.

(f) Proposed method of delivery of goods, if applicable.

(g) Make, model and license number of any vehicle to be used by applicant in the conduct of his/her business.

(h) Last cities, villages and towns, not to exceed three, where applicant conducted similar business.

(i) Place where applicant can be contacted for at least seven days after leaving this Village.

(j) Statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's transient merchant business within the last five years, the nature of the offense and the place of conviction.

(6) APPLICATION INFORMATION. Applicants shall present to the Village Clerk/Treasurer for examination:

(a) A driver's license or some other proof of identity as may be reasonably required.

(b) 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.

(c) 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 90 days prior to the date the application for license is made.

(d) The applicant may also be required to obtain a Conditional Use Permit (CUP), in accordance with Village Zoning codes. Such CUP must be applied for in accordance with the zoning provisions of Ch. 18 this code, and must be presented to the Village Clerk/Treasurer at the time of making application to do business in the Village as a direct seller or solicitor.

(7) REGISTRATION FEE AND PROCESS.

(a) At the time the registration is returned, a fee of \$100.00 for each day the applicant wishes to do business in the Village as a direct seller or solicitor, shall be paid to the Clerk/Treasurer.

(b) The applicant shall sign a statement appointing The Village Clerk/Treasurer 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.

(c) Upon payment of said fee and the signing of said statement, the Village Clerk/Treasurer shall, with Village Board approval, register the applicant as a direct seller or solicitor and date the entry. Said nontransferable registration shall be valid for a period of one year from the date of entry, subject to subsequent refusal as provided in subd. 8(b).

(d) None of the registration fees, provided for by this section shall be applied as to occasion an undue burden upon interstate commerce. In any case where a registration fee is believed by a registrant for registration to place an undue burden upon such commerce, the registrant may apply to the Village Clerk/Treasurer for an adjustment of the fee so that it shall not be discriminatory, unreasonable, or unfair as to such commerce.

1. Such application may be made before, at, or within six months after payment of the prescribed registration fee. The registrant shall, by affidavit and supporting testimony, show his/her method of business and the gross volume of business and such other information as the Village Clerk/Treasurer shall deem necessary in order to determine the extent, if any, of undue burden on such commerce.
2. The Village Clerk/Treasurer shall then conduct an investigation, comparing registrant's business with other businesses of like nature and shall make findings of fact from which the Village Clerk/Treasurer shall determine whether or not the fee fixed by this section is unfair, unreasonable or discriminatory as to the registrant's business and shall fix as the registration fee for the registrant, an amount that is fair, reasonable and nondiscriminatory or, if the fee has already been paid, shall order a refund of the amount over and above the fee so fixed.
- 2m. In fixing the fee to be charged, the Village Clerk/Treasurer shall have the power to use any method which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the fees as prescribed by this section.

(8) INVESTIGATION.

(a) Upon receipt of each application, the Village Clerk/Treasurer shall refer it immediately to the Chief of Police, who shall make a complete investigation of the statements made in such registration. The applicant will pay \$10.00 to the Village to cover the cost incurred for such investigation.

(b) The Village Clerk/Treasurer shall refuse to register the applicant if it is determined, pursuant to the investigation above, that:

1. The application contains any material omission or materially inaccurate statement;
2. Complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns in which the applicant conducted similar business;
3. The applicant was convicted of a crime, statutory violation or ordinance violation within the last five years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or
4. The applicant failed to comply with any applicable provision of sec.(5)above.

(9) APPEAL. Any person denied registration may appeal the denial through the appeal procedure as may be provided by ordinance of the Village Board or, if none has been adopted, under the provisions of §§68.07 through 68.16, Wis. Stats.

(10) PROHIBITED PRACTICES.

- (a) No activity permitted under this section shall commence prior to 9:00 a.m. nor continue after 5:00 p.m.. This time limitation shall be stated on the permit. (Recr. fr. §5.02.070)
- (b) Calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers", "No Solicitors" or words of similar meaning;
- (c) 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.
- (d) Misrepresenting or making false, deceptive or misleading statements concerning the quality, quantity or character of any goods offered for sale, the purposes of the direct seller or solicitor's visit, the direct seller or solicitor's identity or the identity of the organization the direct seller or solicitor represents. A charitable organization direct seller shall specifically disclose what portion of the sale price of goods being offered or funds solicited 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 goods.
- (e) Impeding 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.
- (f) Making any loud noises or using any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside of a one hundred foot radius of the source.
- (g) Allowing rubbish or litter to accumulate in or around the area in which business hereunder is being conducted.

(11) DISCLOSURE REQUIREMENTS.

- (a) After the initial greeting and before any other statement is made to a prospective customer, a 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 goods or services he/she offers to sell.
- (b) If any sale of goods is made by a direct seller or solicitor, or any sales order for the later delivery of goods is taken by the seller or solicitor, the buyer shall have the right to cancel said transaction if it involved the extension of credit or is a cash transaction of more than \$25.00 in accordance with the procedure as set forth in. §423.203, Wis. Stats.

(c) If the direct seller or solicitor takes a sales order for the later delivery of goods, 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 or solicitor, the delivery or performance date and whether a guarantee or warranty is provided and, if so, the terms thereof.

(12) RECORDS. The Chief of Police shall report to the Village Clerk/Treasurer all convictions for violation of this section and the Village Clerk/Treasurer shall note any violation on the record of the registrant so convicted.

(13) REVOCATION OF REGISTRATION.

(a) Registration may be revoked by the Village Board after notice and hearing if the registrant made any material omission or materially inaccurate statement in the application for registration; made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales; violated any provision of the Ordinance or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling

(b) Written notice of the hearing shall be served personally on the registrant at least 72 hours prior to the time set for the hearing; such notice shall contain the time and place of the hearing and a statement of the facts upon which the hearing will be based.

(14) EXEMPTIONS. (Recr. fr. §5.02.020) This section or any part thereof shall not apply to the following:

- (a) Newsboys;
- (b) Merchants delivering goods in the regular course of business;
- (c) Vendors of milk, bakery goods, groceries or ice distributing products to only regular customers on established route;
- (d) Farmers and truck gardeners;
- (e) Local religious, charitable, patriotic or philanthropic organizations;
- (f) Persons selling property at wholesale to dealers .

(15) PENALTY. Any person convicted of violating any provisions of this section shall forfeit not less than \$50.00 nor more than \$600.00 for each violation, plus costs of prosecution. Each violation shall constitute a separate offense.

5.17 AMUSEMENT ARCADES. (Was Ch. 5.04, §§[5.04.010-5.04.070](#); §5.04.080 repealed)

(1) DEFINITIONS. (Was §5.04.010)

(a) Amusement Devices. Amusement devices shall Mean: pool tables; billiard tables; electronic games; and, any other coin, token or slug operated machine which is used by the public as a game, entertainment, or amusement, whether or not registering a score, but not including music machines.

(b) Amusement Arcade. An amusement arcade shall mean any premises in which are located five (5) or more amusement devices as defined in this section.

(2) LICENSE REQUIRED. (Was §5.04.020) No person, firm or corporation shall operate an amusement arcade without receiving an arcade license from the village upon payment of a license fee. The establishment of an arcade shall also be subject to the conditional use provisions of the zoning ordinance of the Village.

(3) POSTING OF LICENSES. (Was §5.04.030)

(a) Application for amusement arcade licenses shall be submitted to the Village Clerk/Treasurer. The Village Clerk/Treasurer shall submit the applications to the rules and regulations committee which shall recommend either approval or disapproval of the application to the Village Board. The Village Board shall either approve or disapprove the license.

(b) Upon approval of the application by the village board, the Village Clerk/Treasurer, upon payment of the required fees, shall issue the license to the applicant. Licenses shall be for not longer than one year and all licenses shall expire on June 30th of each year.

(c) The fee required to be paid in order to obtain an amusement arcade license shall be a minimum of \$50 with a maximum of \$200 per amusement device per year. This fee shall not apply to amusement devices owned by the village.

(d) Operators of amusement devices on a temporary basis at social or community gatherings shall be required to obtain a limited amusement arcade license, regardless of the number of devices. This license shall be in effect for not more than three days per event. The aforementioned limited licenses shall be \$10 per day.

(4) POSTING OF LICENSES. (Was §5.04.040) Any license issued hereunder shall be posted in close proximity of the location of the licensed devices.

(5) PROHIBITIONS AND RESTRICTION. (Was §5.04.050)

- (a) The amusement arcade operator shall comply with all applicable state, county and village laws, rules and regulations.
- (b) The amusement arcade operator shall not allow any person under the influence of an intoxicant or a controlled substance as defined in the Wisconsin Statutes to remain in the establishment.
- (c) The amusement arcade operator shall not allow minors to be on the premises between 8:00 a.m. and 3:30 p.m. on days when schools are in session.

(6) SCHEDULE OF DEPOSITS. (Was §5.04.060) The schedule of deposits in Chapter 25 is hereby amended by the addition of the following:

Ordinance Number	Offense	Deposits Required 5.17(2)
	Failure to procure amusement arcade license	\$400.00
55.17(3)(c)	Failure to report correct number of amusement devices <small>(each device shall constitute a separate offense)</small> 45.	45.00
5.17(3)(d)	Failure to obtain limited amusement device license	20.00

(7) SEVERABILITY. (§5.04.070, repealed codification 2001) See Ch. 25, this code.

BARBERS AND BARBER SHOPS

5.18 BARBERS AND BARBER SHOPS. (Was Ch. 5.05, §§5.05.010 and.020)

(1) STATE LICENSE REQUIRED. (Was §5.05.010) No person shall engage in the business of barbering as defined in §454.01 Wis. Stats., without being licensed by the State barbering and cosmetology examining board.

(2) STATE REGULATIONS ADOPTED. (Recr. fr. §5.05.020) Ch. 454, Wis. Stats., and Wis. Adm. Code, Chs. BC 1 through 7, exclusive of penalty provisions, are adopted by reference and made a part of this chapter as though set forth herein in its entirety. Violation of such regulations shall constitute a violation of this section.

TAXICABS**5.19 TAXICABS.** (Was Ch. 5.06, §§5.06.010 through .100)

(1) TAXICAB DEFINED. (Was §5.06.010) "Taxicab" shall include all vehicles transporting passengers for remuneration for which patronage is solicited publicly. This section shall not apply to:

(a) Vehicles operating on established routes which are regulated by the Public Service Commission of Wisconsin.

(b) Vehicles rented to be driven by the renter or his agent, commonly known as rent-a-car.

(2) LICENSE REQUIRED. (Was §5.06.020, as am. By codification 2001)

(a) Under authority granted by §349.24, Wis. Stats., no person shall, for remuneration, transport passengers in a taxicab within the village without first having obtained a taxicab license.

(b) Any person licensed under this section is required to comply with the licensing requirements of Ch. 343, Wis. Stats.

(3) APPLICATION FOR LICENSE. (Was §5.06.030) Application for a taxicab license to operate one or more taxicabs or an application to operate additional taxicabs under an additional license shall be made in writing to the Village Clerk/Treasurer, and such application shall contain a description of the vehicle to be operated, model, year of manufacture, engine number, serial number, capacity for passengers, Wisconsin certificate of title number and license number. The application shall be submitted to the village board, which shall notify the applicant of the time and place set for hearing. A hearing shall be held within 30 days after the filing of the application. No license shall be granted until the Village Board shall, by resolution, have determined that the public convenience and necessity will be served by the proposed service. The Village Board may hold such further hearing and procure such additional information as it may deem necessary or advisable in making such determination.

(4) LICENSE FEE. (Was §5.06.040) The taxicab license fee shall be \$10 per year or any fraction part thereof for the first vehicle operated and \$10 per year or any fractional part thereof for each additional vehicle operated by the same licensee. The license year shall commence on July 1 and end on June 30th. If less than 6 months remain of the license year, the license fee shall be reduced to 1/2.

(5) **INSURANCE.** (Was §5.06.050) No taxicab license shall be issued unless tile applicant shall file a certificate with the Village Clerk/Treasurer showing that he has liability insurance in accordance with the minimum requirements of the State Motor Vehicle Responsibility Law.

(6) **TRANSFER OF TAXICAB LICENSE.** (Was §5.06.060) No taxicab license shall be transferable either from the vehicle described in the original application to another vehicle, or from the original licensee to another person without permission from the Village Board.

(7) **RENEWAL.** (Was §5.06.070) Taxicab licenses may be renewed by the Village Clerk/Treasurer upon payment of the fees and filing of certificates of insurance as required for the original license.

(8) **REVOCAION.** (Was §5.06.080, as am. By Codification 2001) A taxicab license may be revoked at any time by the village board for violation of any provision of this section, or for any violation of any provision of Chs. 340 to 349, Wis. Stats., or of any such statutory provision incorporated in the Village Code of Ordinances. Such revocation may be for all vehicles or any vehicle included under a license. When any taxicab license is revoked, it shall be the duty of the Village Clerk/Treasurer to immediately notify the licensee to cease immediately to operate the taxicab for which the license has been revoked.

(9) **CONDITION OF VEHICLES.** (Was §5.06.090) The licensee shall keep each taxicab in a clean and sanitary condition, well painted and equipped and maintained as required by Ch. 347, Wis. Stats.

(10) **Rate To Be Posted.** (§5.06.100) Every person operating a taxicab shall at all times have permanently posted and displayed in said taxicab so as to be visible to the passengers therein the rates and fares for the use of such cab.

CIGARETTE AND TOBACCO LICENSE

5.20 CIGARETTE AND TOBACCO LICENSE. (Was Ch. 5.07, §5.07.010 through .040, re-titled and am. By Codification 2001) (1) **REQUIRED--EXCEPTION.** (Was §5.07.010) (a) No person shall in any manner, or upon any pretense, or by any device, directly or indirectly sell, expose for sale, possess with intent to sell, exchange, barter, dispose of or give away any cigarettes or tobacco products to any person not holding a license as provided under Ch. 134, Wis. Stats., or a permit under §§139.30 to 139.41 or 139.79, Wis. Scats., without first obtaining a license from the Village Clerk/Treasurer in the manner provided herein and in § 134.65, Wis. Stats.

(b) This section shall not apply to jobbers or manufacturers doing interstate business with customers outside Wisconsin.

(2) **FEE.** (Was §5.07.020, as am. By Codification 2001) The fee for such cigarette license shall be as established by the Village Board. In accordance with §134.65(2), Wis. Stats., said fee shall not be less than \$5.00 nor more than \$100.00 and must be paid to the Village Clerk/Treasurer before the Clerk/Treasurer issues any license under this section.

(3) **FORM; EXPIRATION; AND TRANSFERABILITY.** (Was §5.07.030)

(a) All cigarette licenses shall be signed by the Village Clerk/Treasurer and shall contain the name of the licensee and the place where he or she is authorized to conduct the licensed business.

(b) No license shall be transferable as to the location of licensed premises, and no license shall be transferable from person to person.

(c) All cigarette licenses shall expire on June 30th next succeeding the date of issue.

(4) **VIOLATION AND PENALTY.** (§5.07.040) The penalty for violation of any of the provisions of this section shall be as provided in Chapter 25. A separate offense is committed on each day on which a violation occurs or continues.

JUNK DEALERS, JUNK YARDS AND SALVAGE YARDS

(Enacted during codification 2001-LGRS)

5.22 JUNK DEALERS, JUNK YARDS AND SALVAGE YARDS

(1) **DECLARATION OF PURPOSE AND PUBLIC NUISANCES.** In order to promote the public safety, health, welfare, convenience and enjoyment, to protect the public investment in the Village, and to promote the prosperity, economic well-being and general welfare of the Village, it is declared to be in the public interest to regulate and restrict junk dealers and the establishment, operation and maintenance of junkyards within the Village. All junkyards in violation of this section are declared public nuisances.

(2) **DEFINITIONS.**

(a) "Automobile graveyard" means an establishment or place of business which is maintained, used, or operated for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled motor vehicles or motor vehicle parts. Ten or more such vehicles constitute an automobile graveyard.

(b) "Industrial activities" mean those activities defined by s.84.31(2), Wis. Stats.

(c) "Junk" means any old or scrap metal, metal alloy, synthetic or organic material, or waste, or any junked, ruined, dismantled or wrecked motor vehicle or machinery, or any part thereof.

(d) "Junkyard" means any place which is owned, maintained, operated or used for storing, keeping, processing, buying or selling junk, including refuse dumps, garbage dumps, automobile graveyards, scrap metal processors, auto-wrecking yards, salvage yards, auto-recycling yards, used auto parts yards and temporary storage of automobile bodies or parts awaiting disposal as a normal part of a business operation when the business will continually have like materials located on the premises, and sanitary landfills. The definition does not include litter, trash, and other debris scattered along or upon the highway, or temporary operations and outdoor storage of limited duration.

(e) "Motor vehicle salvage dealer" means a person who purchases and resells motor vehicles for wrecking, processing, scrapping, recycling or dismantling purposes or who carries on or conducts the business of wrecking, processing, scrapping or dismantling motor vehicles or selling parts of motor vehicles so processed.

(f) "Motor vehicle salvage pool" means a person who is engaged primarily in the business of selling or distributing damaged motor vehicles at wholesale, whether or not the motor vehicles are owned by that person.

(g) "Scrap metal processor" means a fixed location at which machinery and equipment are utilized for the processing and manufacturing of iron, steel or nonferrous metallic scrap into prepared grades and whose principal product is scrap iron, scrap steel or nonferrous metal scrap for sale for remelting purposes.

"Scrap metal processor" means a motor vehicle salvage dealer who sells no motor vehicles or motor vehicle parts and whose business is limited to a fixed location at which machinery and equipment are utilized for the processing and manufacturing of iron, steel or nonferrous metallic scrap into prepared grades and whose principal product is scrap iron, scrap steel or nonferrous metal scrap for sale for remelting purposes.

(3) CONDITIONS FOR OPERATION. No person, persons or corporation shall be allowed to keep, house, store or place in the Village any junk, such as all scrap iron, wrecked cars, junked cars, junked machinery, wrecked machinery, broken glass, junked trailers, wrecked trailers, bottles, jugs, rags, papers of all kinds, all scrap metals, and anything which from its worn condition renders it practically useless for the purpose for which it was made, and what is commonly classed as junk, unless they abide by the following:

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(a) License Required. Such person, persons or corporation shall, on September 1 of each year, secure from the Village Board a license, at the cost of \$10.00 per year; payable to the Village Clerk/Treasurer .

(b) Businesses Located. It shall be the duty of the Village Board to decide where any person, persons or corporation, asking for a license to operate a junk yard, shall have his or her place of business located.

(c) Fencing Required. A business located and regulated under this section shall have a fence enclosure constructed of wood or metal within which all junk shall be stored and kept. Said fence shall be perfectly solid so as to keep all junk from view of any passerby, any adjoining property owners and operators. The fence shall be well constructed, well painted and maintained in neat appearance at all times.

(d) Motor Vehicle Salvage Dealer. A motor vehicle salvage dealer shall provide the Village Board with proof of compliance with §218.22, Wis. Stats.

(e) Storage of Junked Automobiles. See §175.25, Wis. Stats.

(4) **VIOLATION AND PENALTY.** Any person, persons or corporation who within 30 days of having been properly notified by the Village Board, violates the provisions of this section shall upon conviction be fined not less than \$10, nor more than \$50 for each offense, and in default of payment of said fine shall be imprisoned in the county jail for a period not exceeding 30 days. Each day that junk, as herein defined, shall be stored contrary to the provisions hereof shall constitute a separate and distinct offense.

PAWNBROKERS, SECONDHAND AND ANTIQUE DEALERS

(Enacted during codification 2001, LGRS)

5.23 PAWNBROKERS, SECONDHAND AND ANTIQUE DEALERS.

(1) SECONDHAND AND ANTIQUE DEALERS.

(a) Statute Adopted By Reference. Section 134.71, Wis. Stats., is adopted by reference with the same force and effect as if fully set forth herein.

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BUSINESS REGULATIONS 5.23(1)(b)

(b) License Required. No person shall engage in the business of selling secondhand household goods or furnishings or deal in antiques without first having obtained a license from the Village Clerk/Treasurer.

(c) License Fee. The license fee hereunder shall be \$27.50; and, for secondhand article dealer mall or flea market license, \$165.00.

(2) PAWNBROKERS.

(a) Statute Adopted By Reference. Section 138.10, Wis. Stats., exclusive of subs.(7) thereof, relating to the business of pawnbroking is adopted by reference with the same force and effect as if fully set forth herein.

(b) License Required. No person shall engage in the business of pawnbroking, as defined in §138.10(3)(a) and (e), Wis. Stats., without first having obtained a license from the Village Clerk/Treasurer.

(c) License Fee. The license fee hereunder shall be \$10.00 per year or fractional part thereof.

(3) RECORDS.

(a) Every Licensee hereunder shall keep a written record of all articles purchased or sold with a description thereof and the name and address of the person involved in the transaction.

(b) Every record under par. (a), shall be kept open to inspection by the Village Police Department at all reasonable hours. Such record shall be kept for a minimum of 2 years after expiration of any license issued under this section.

CABLE TELEVISION FRANCHISE

(Renum. fr. Ch. 5.08, 12/09/87)

5.25 CABLE TELEVISION FRANCHISE AUTHORIZED. Under authority granted in §66.082, Wis. Stats., the Village Board of the Village of Brownsville does hereby enact this section granting unto Dodge County Cablevision, a cable television franchise upon the terms and conditions herein set forth. (Recr. fr. Intro to Ch. 5.08, Codification 2001)

(1) **GRANT OF FRANCHISE.** (Was §5.05.010) This section grants to Dodge County Cablevision, with offices at 2911 Ballard Road, Appleton, Wisconsin 54913, a nonexclusive franchise to install, maintain and operate a cable television system for the distribution of television signals, frequency modulated radio signals, closed circuit television programs, data transmissions and any and all additional services which are not or may be commonly associated with the cable television industry in the future. The term of this grant is for fifteen (15) years.

(2) **DEFINITIONS.** (Was §5.08.020) The following words and phrases, whenever used in this chapter shall be construed as defined in this section unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such word or phrase:

(a) Additional Service. Any subscriber service provided by the grantee for which a special charge is made in addition to the regular monthly charge paid by all subscribers.

(b) Basic Subscriber Service. Subscriber services provided by the grantee, including the delivery of broadcast signals and programming originated over the cable system, covered by the regular monthly charge paid by all subscribers .

(c) Board. The duly elected Village Board of the Village of Brownsville or other future governing body of said entity.

(d) Cable System. A system of antennas and other receiving equipment, cables, wire, lines, towers, waveguides, laser beams or any other conductors, converters, equipment or facilities, designed or constructed for the purpose of producing, receiving, amplifying and distribution by audio, video, and other forms of electronic or electrical signals to and/or from locations in and outside the Village of Brownsville.

(e) Full Network Service. All "Basic Services" and "additional services" offered by the grantee.
Grantee. Dodge County Cablevision.

(g) Subscriber. A purchaser of any service delivered by grantee pursuant to this franchise, and "subscriber" shall also include all persons who are not required to pay any fee, but receive any service delivered by grantee pursuant to this franchise.

(h) Substantially Completed. Construction will be considered substantially completed when sufficient distribution facilities have been installed so as to permit the offering of "basic subscriber service" to at least eighty percent (80) % of the dwelling units in each of the service areas.

(3) FRANCHISE EXPIRATION AND CANCELLATION. (Was §5.08.030) The initial service area to be covered by the franchise is the municipal limits of the Village of Brownsville and the cable operator shall provide service to that portion of the Village where there are a minimum of forty (40) homes per linear mile of cable plant. The Grantee shall be required to extend its service to any additional part of the municipality pursuant to said extension policy .

(4) TECHNICAL STANDARDS. (Was §5.08.040) Grantee shall maintain a cable television system at all times in compliance with the Federal Communications Commission Technological Standards and shall file all necessary reports as required by the Rule of the Federal Communications Commission.

(5) GRANTEE'S USE OF VILLAGE RIGHTS. (Was §5.08.050) Upon acceptance of this franchise, Grantee is hereby granted the right to erect, maintain, and operate a cable system in the streets, alleys and utility easements of the Village of Brownsville, and other public places. The poles used for such distribution shall be those erected or used by the local utilities. The grantee may erect its own pole where necessary after first obtaining permission from the Board.

(6) METHOD OF INSTALLATION. (Was §5.08.060)

(a) All installations made by the grantee shall be made in good, substantial, safe condition and maintained in such condition at all times and shall be made in accordance with all applicable rules and regulations, including the rules and regulations of the utility company owning any poles utilized by the grantee. The grantee shall make no excavations in the streets, alleys and public places without first procuring a written permit from the Village Engineer or other authorized representative of the Village, and all work of such kind shall be done so as to meet the approval of the Village's Engineer or other person authorized by the Village to approve such work.

(b) The grantee's transmission and distribution system poles, wires and appurtenances shall be located, erected and maintained so as not to interfere with the lives or safety of persons, or to interfere with improvements the Village may deem proper to make, or not to hinder or obstruct the free use of the streets, alleys, bridges or other public property.

(c) Grantee shall restore all areas of construction and/or excavation to the condition existing prior to the beginning of construction and/or excavation.

(7) AUTHORITY TO TRIM TREES. (Was §5.08.070) The grantee shall have the authority to trim overhanging trees upon any streets, alleys, sidewalks, and other public places of the Village so as to prevent the branches of such trees from coming in contact with the wire and cables of the company. This paragraph shall be limited to grant only as much authority as the Village may have under the law with regard to said trimming.

(8) INDEMNITY. (Was §5.08.080)

(a) The grantee shall indemnify , defend and save the Village and its agents and employees harmless from all claims, damages, losses, and expenses, including attorney's fees, sustained by the Village on account of any suit, judgment execution, claim or demand whatsoever arising out of the installation, operation, maintenance, repair, use or removal of the cable system, except for such claims, damages, losses, and expenses, including attorney's fees, which are attributable in part or in whole to acts of the Village or its agents unless said act was pursuant to law and within this contract.

(b) The grantee shall maintain throughout the term of the franchise a general comprehensive liability insurance policy naming as an additional insured the village, its officers, boards, commissions, agents and employees, protecting the Village and its agencies and employees against liability for loss or damage for personal injury, death or property damage, occasioned by the operations of grantee under the franchise granted hereunder, in the amounts of Five Hundred Thousand Dollars (\$500,000.00) for bodily injury or death to anyone person and One Million Dollars (\$1,000,000.00) for bodily injury or death resulting from anyone accident, and one Hundred Thousand Dollars (\$100,000.00) for property damage resulting from anyone accident.

(d) The insurance policy shall contain an endorsement stating that the policy is extended to cover the liability assumed by the grantee under the terms of this ordinance and shall further contain the following endorsements:

1. It is hereby understood and agreed that this policy may not be cancelled nor the amount of coverage thereof reduced until thirty (30) days after receipt by the Village Clerk/Treasurer by registered mail of a written notice of such intent to cancel or reduce the coverage.
2. For this purpose, the Grantee shall carry and at all times maintain on file with the Village Clerk/Treasurer insurance insuring such Grantee and Village against any and all liability arising from the installation, maintenance, and operation of the Cable Television System.

(9) SERVICES PROVIDED. (Was §5.08.090) The Grantee shall provide the maximum amount of service as are economically feasible to provide taking into consideration all costs of operation and the density of the cable television system as it relates to number of subscribers pursuant to the Federal Cable Communications Policy Act of 1984, the municipality shall exercise no censorship or control over programming services and/or content thereof.

(10) SUBSCRIBER PRIVACY. (Was §5.08.100) No monitoring of any terminal connected to the system shall take place without specific written authorization by the user of the terminal in question.

(11) UNAUTHORIZED CONNECTIONS OR MODIFICATIONS. (Was §5.08.110)

(a) It shall be unlawful for any firm, person, group, company, corporation or governmental body or agency, without the expressed written consent of the grantee, to make or possess any connection, extension or diversion, whether physically, acoustically, inductively, electronically or otherwise, with or to any segment of the cable system for any purpose whatsoever.

(b) It shall be unlawful for any firm, person, group, company, corporation or government body or agency to willfully interfere, tamper , remove, obstruct or damage any part, segment or content of the cable system for any purpose whatsoever.

(12) FRANCHISE REVOCATION AND EXPIRATION. (Was §5.08.120)

(a) The Village may, subject to the procedure in par. (b) below, revoke any franchise granted hereunder and rescind all rights and privileges associated therewith in the event of a material or substantial breach of any term or condition of this ordinance.

(b) In the event the Village Board determines it is in the public interest to terminate the cable television franchise, the Board shall give the grantee sixty (60) days written notice of its intention to terminate and stipulate the cause. If during the sixty (60) day period, the cause shall be cured, the notice and right to terminate shall be null and void. The grantee shall, in any event, be given an opportunity to be heard before the Village Board regarding termination and the grantee shall be afforded all due process rights regarding termination. In the event of termination, the Board shall provide a written summary of its reasons for termination and said decision shall be subject to judicial review.

(c) The expiration of this franchise shall be governed by the terms and provisions of the Cable Communications Policy Act of 1984.

(13) Severability. (Was §5.08.130) Should any word, phrase, clause, sentence, paragraph, or portion of this ordinance and franchise be declared to be invalid by a Court of competent jurisdiction, such adjudication shall not affect the validity of this ordinance and franchise as a whole, but shall only affect the portion thereof declared to be invalid; and the Village hereby expressly states and declares that it would nonetheless have passed this ordinance and granted this franchise had it known that any such word, phrase, clause, sentence, paragraph or portion of said franchise were invalid.

(14) COMPLIANCE TO LAWS, RULES, AND REGULATIONS. (Was §5.08.140) In the event any valid law, rule or regulations of any governing authority or agency having jurisdiction, including but not limited to, the Federal Communications Commission, contravenes the provisions of this ordinance subsequent to its adoption, then the provisions hereof shall be superseded to the extent that the provisions hereof are in conflict with any such law, rule, or regulation.

(15) PROTECTION OF NONSUBSCRIBERS. (Was §5.08.150) Grantee shall at all times keep its cables and other appurtenances used for transmitting signals protected in such a manner that there will be no interference with communications signals received by persons not subscribing to Grantee's service.

(16) CONFLICT WITH OTHER ORDINANCES. (Was §5.08.160)

(a) Should any other ordinance or part thereof be in conflict with the provisions of this ordinance, this ordinance shall prevail insofar as it applies to the Cable Communications System Franchise granted to Grantee.

(b) The granting of a permit under this ordinance shall not be construed as any undertaking or guarantee of the efficiency of the Grantee or maintenance of the service of the Grantee. The Village assumes no responsibility for the acts or omissions of the Grantee other than to require compliance with this ordinance.

5.30 RUMMAGE/GARAGE SALES. While no permit is required for a person to hold a garage/rummage sale, such sales are regulated as stated in this section 5.30.

(1) DEFINITIONS.

Personal Property: Includes any property, other than real estate, which is acquired in the course of living in or maintaining a dwelling unit.

Rummage/Garage Sale: Any sale of personal property conducted on any residentially zoned property, within the Village, irrespective of what the sale is designated as by the seller.

(2) ALLOWABLE MERCHANDISE; DURATION OF SALE; HOURS.

(a). It shall be unlawful for any person or party to sell other than personal property at a rummage/garage sale.

(b). It shall be unlawful for any person or party to hold or permit to be held a rummage/garage sale on more than nine calendar days, whether or not consecutive, within any calendar year.

(c). It shall be unlawful for any person or party to hold or permit to be held a rummage/garage sale during the hours of 9:00 p.m. to 7:00 a.m. on any day.

(3) SIGNS.

(a) Signs are allowed on the parcel having the sale.

(b) Off-premises temporary rummage/garage sale signs are permitted only if not exceeding 24"x24" in size and location does not constitute a traffic view obstruction.

(c) All signs shall be removed within 24 hours of the close of the rummage/garage sale.

(4) VIOLATIONS AND PENALTIES.

Any person who shall violate any provision of this chapter, or any regulation, rule or order made hereunder, shall be subject to a forfeiture of not less than twenty-five dollars (\$25.00) and not more than one hundred dollars (\$100.00) per violation.