

Wednesday, September 7, 2022

6:30 PM

McFarland Municipal Center
Community Room

AGENDA

You are invited to this meeting through a Zoom webinar. The public is strongly encouraged to watch and participate in these meetings remotely through either the webinar or telephone options listed below.

PLEASE CLICK THE LINK BELOW TO JOIN THE ZOOM WEBINAR:

<https://us02web.zoom.us/j/88228157855>

Or by Telephone: +1 (312) 626-6799

Webinar ID: 882 2815 7855

Press *9 to raise/lower hand. Press *6 to mute/unmute.

1. CALL TO ORDER, ROLL CALL.
2. PUBLIC APPEARANCES.
 - a. This is an opportunity for members of the public to address the Public Safety Committee. Please remember this is a virtual meeting conducted through the Zoom online meeting platform. Zoom meeting attendees wishing to address the Committee may do so using the Question and Answer feature within the Zoom online meeting platform. You may state your name, address, and provide your comments to the Committee for their consideration. Members of the public who are present in person and wish to address the Committee should fill out a public comment form and turn into the meeting chairperson. Members of the public may speak during public appearances or during their selected agenda item as they designate on the public comment form. Please adhere to the 3-minute time limit. Additionally, you may send your public comments to public.safety@mcfarland.wi.us to be included as part of the meeting.
3. APPROVAL OF MINUTES.
 - a. Motion to approve the minutes of the 6/6/22 PSC meeting.
4. BUSINESS.
 - a. Discussion and recommendation on Ordinance 2022-11: An Ordinance amending the licensing process for direct sellers.
 - b. Discussion and recommendation on updates to the noise ordinance and standardizing noise requirements in the Village Code of Ordinances.
5. SCHEDULE NEXT MEETING DATE.
 - a. October 3, 2022 at 6:30 p.m.
6. ADJOURNMENT.

by 2:00 p.m. at least 5 business days prior to the meeting so that any necessary arrangements can be made to accommodate each request. If the meeting or request is less than 5 business days from the meeting, requests for accommodations may still be made and reasonable efforts will be made to accommodate each request.

VILLAGE OF MCFARLAND
Public Safety Committee Minutes

Monday, June 6, 2022 - 6:30 PM

1. CALL TO ORDER, ROLL CALL.

Chairperson Edward Wreh called the regular meeting of the Public Safety Committee to order at 6:30 PM in the community room.

Members present: Edward Wreh, Stephanie Brassington, Rich Staley (arrived at 6:41 p.m.), Shannon Morrison, Dottie Olson

Members not present: Sandy Bakk

Staff Present: Village Clerk Cassandra Suettinger, Police Chief Aaron Chapin, Fire Chief Chris Dennis

2. PUBLIC APPEARANCES.

Citizens were present to comment regarding specific agenda items, and Chairperson Edward Wreh held the comments each respective agenda item.

- a. *This is an opportunity for members of the public to address the Public Safety Committee. Please remember this is a virtual meeting conducted through the Zoom online meeting platform. Zoom meeting attendees wishing to address the Committee may do so using the Question and Answer feature within the Zoom online meeting platform. You may state your name, address, and provide your comments to the Committee for their consideration. Members of the public who are present in person and wish to address the Committee should fill out a public comment form and turn into the meeting chairperson. Members of the public may speak during public appearances or during their selected agenda item as they designate on the public comment form. Please adhere to the 3-minute time limit. Additionally, you may send your public comments to public.safety@mcfarland.wi.us to be included as part of the meeting.*

3. APPROVAL OF MINUTES.

- a. *Motion to approve the minutes of the May 6 and May 17, 2022, meetings.*

Motion by Chairperson Edward Wreh to approve the minutes of the May 6 and May 17, 2022, meetings. Motion carries 4 - 0 - 0 by acclamation.

4. BUSINESS.

- a. *Chief Chapin to announce the police department K-9.*

Chief Chapin announced K9 Rudy and answered the committees questions.

- b. *Discussion and recommendation on an event permit application from the McFarland Community Band for the McFarland Community Band Concert to be held on Thursday July 7th and August 11th from 6:30 p.m. to 7:45 p.m. and the request to waive the event permit fee for a Community Organization per Village Ordinance 36-16.*

Chairperson Edward Wreh introduced the agenda item. Village Clerk Cassandra Suettinger gave an overview of the event permit application for the band event. Ben Peterson was present to give additional information, including a brief history of the event.

Motion by Chairperson Edward Wreh, second by Member Shannon Morrison, to recommend approval on an event permit application from the McFarland Community Band for the McFarland Community Band Concert to be held on Thursday July 7th and August 11th from 6:30 p.m. to 7:45 p.m. and the request to waive the event permit fee for a Community Organization per Village Ordinance 36-16. Motion carries 5 - 0 - 0 by acclamation.

- c. Discussion and recommendation on an application from Bolha Short-Term Rentals for a tourist rooming house permit for the property located at 6011 South Court for the period commencing July 1, 2022 and ending June 30, 2023.

Chairperson Edward Wreh introduced the item and opened comments on the item. Matt Bolha (applicant) spoke regarding the property and offered to answer any questions from the community. Chairperson Edward Wreh read a comment submitted to the village by Dawn Graham, 6014 South Court. Matt Bolha addressed the concerns. Village Clerk Cassandra Suettinger did a run down on the staff review of the application, and staff recommended approval. The committee discussed changing the length of time for short-term rentals.

Motion by Chairperson Edward Wreh, seconded by Member Shannon Morrison, to recommend approval on an application from Bolha Short-Term Rentals for a tourist rooming house permit for the property located at 6011 South Court for the period commencing July 1, 2022 and ending June 30, 2023. Motion carries 5 - 0 - 0 by acclamation.

- d. Discussion and recommendation on an application from Lake Edge Ventures LLC to have a tourist rooming house at 5720 Lake Edge Road for the period commencing July 1, 2022 through June 30, 2023.

Chairperson Edward Wreh introduced the item. Village Clerk Suettinger did not receive any written comments regarding this item.

Sharyn Gussick 5708 Lake Edge Road was present to voice her concerns over the property becoming a tourist rooming house, due to it being used by teenage children for unsupervised all night parties, and it has not been maintained.

Stuart Alba, 5622 Lake Edge Road was present to voice his concerns regarding the property becoming a tourist rooming house, with his main concern being parking on Lake Edge Road. He presented photographs of the property and the parking to the committee.

David Silverberg, 5816 Lake Edge Road, was present to voice his concern regarding the property becoming a tourist rooming house, including nuisance concerns.

Kelvin Veldre, a representative of the property, was present to address concerns of the community. He is the property manager, and will respond to problems. Kelvin answered questions from the committee.

Village Clerk Cassandra Suettinger reviewed the application. Staff found the application to be complete and recommended conditional approval as outlined in the packet. Committee members discussed the item and asked questions about the condition of the property, which Kelvin responded to. Chief Chapin answered the question about police calls. There have been no calls to the property since 2013.

Motion by Chairperson Edward Wreh, seconded by Member Dottie Olson, to recommend approval of an application from Lake Edge Ventures LLC to have a tourist rooming house at 5720 Lake Edge Road for the period commencing July 1, 2022, through June 30, 2023, with the condition that the tourist rooming house permit not be issued until proof has been submitted of all corrections of the electrical switch plate violation identified by the building inspector and the fire inspection. Motion carries 4 - 1 - 0 by acclamation.

- e. Discussion and recommendation on Resolution 2022-14: A Resolution approving the renewal of applications for liquor and fermented malt beverage licenses for 2022-2023. Village Clerk Cassandra Suettinger gave an overview of the agenda item. Police, Fire, and Building inspections have passed. Chief Chapin gave an overview of the few police calls to establishments.

Motion by Chairperson Edward Wreh, seconded by Village Trustee Stephanie Brassington, to recommend approval Discussion and recommendation on Resolution 2022-14: A Resolution approving the renewal of applications for liquor and fermented malt beverage licenses for 2022-2023. Motion carries 5 - 0 - 0 by acclamation.

- f. Discussion and recommendation on a "Class A"/Class "A" Alcohol License for Liberty Square Gas Station Inc. d/b/a Refuel Pantry - McFarland, 4004 Terminal Drive, Lakhbir Singh, Agent, for the period of July 1, 2022 through June 30, 2023.

Village Clerk Suettinger gave an overview of the agenda item. This is a new application. A new entity will be purchasing the location, and the sale is scheduled to happen June 30, 2022; however, Mangat would surrender the license when the sale occurs.

Motion by Chairperson Edward Wreh, seconded by Member Shannon Morrison, to recommend approval to the Village Board on a "Class A"/Class "A" Alcohol License for Liberty Square Gas Station Inc. d/b/a Refuel Pantry - McFarland, 4004 Terminal Drive, Lakhbir Singh, Agent, for the period of July 1, 2022, through June 30, 2023. Motion

carries 5 - 0 - 0 by acclamation.

5. SCHEDULE NEXT MEETING DATE.

The next meeting is August 1, 2022, at 6:30 p.m.

6. ADJOURNMENT.

Motion by Village Trustee Stephanie Brassington, seconded by Member Rich Staley, to adjourn at 7:58 p.m.

Pursuant to law, written notice of this meeting was given to the public and posted on the public bulletin boards in accordance with Open Meetings Law.

Respectfully submitted,
Tricia Reimer
Office Manager

**VILLAGE OF
McFarland
SUMMARY SHEET**

MEETING DATE: Wednesday, September 7, 2022

SECTION: Business

DEPARTMENT: Administration

CONTACT: Cassandra Suettinger, Village Clerk/Treasurer, Aaron Chapin, Police Chief

AGENDA ITEM: Discussion and recommendation on Ordinance 2022-11: An Ordinance amending the licensing process for direct sellers.

PREVIOUS ACTION:

None.

ISSUE SUMMARY:

Staff recommends review and possible revision to the Village's Direct Seller's Ordinance for efficiency and compliance. Those changes include:

1. Insertion of an exemption for fundraisers that commonly occur in the community for youth sports, clubs, or other community organizations. The Village does not currently require a permit for these sorts of sales, and the recommended exemption codifies that practice.

2. Update of language requiring the applicant to provide information on convictions. The new proposed language as recommended by the Village Attorney provides more specificity and clarity to what time period of pending charges and convictions the Village would consider and the exclusion of parking and traffic charges which are not related to the license activity. The changes ensure review of pending charges of convictions is done in a manner that is lawful and within the scope the Village is allowed to consider.

3. Removal of certain documentation requirements to be submitted with the application including:

- Photograph - the applicant is already required to submit a driver's license or other proof of identification. The current additional requirement to submit an additional photograph with the application does not serve a purpose.
- A copy of the applicants' finger prints - Currently, fingerprints are captured from applicants every year. The finger prints then sit on file in the Clerk's Office. The only circumstance in which they could potentially be used is potentially as an investigative tool if one of the applicants was suspected of a crime while they were exercising the permit. In reviewing other municipalities, most municipalities did not require the submittal of finger prints. Staff recommends discontinuing their submittal as they have little value.



4. Update of the appeals process. The current ordinance provides the Village Board to be the appeal body for recommendation of denial of a direct seller's permit. Staff proposes updating this to be the Public Safety Committee. By ordinance, the Public Safety Committee is the appeal body for license and permit processes. For consistency and efficiency, it makes sense to align the Public Safety Committee with this process.

* The above-mentioned changes, as applicable, are also recommended for solicitors' permits.

FINANCIAL/BUDGET IMPACT:

None.

VILLAGE PLAN REFERENCE:

None.

ORDINANCE REFERENCE:

[Chapter 11 - Businesses - Article IV. Direct Sellers and Solicitors](#)

BOARD, COMMISSION OR COMMITTEE RECOMMENDATION:

Recommended for discussion and possible approval. Recommended motion for approval:

I move to recommend approval of Ordinance 2022-11: An ordinance amending the licensing process for direct seller's and solicitors.

ATTACHMENTS:

1. Article VI Proposed Redline Changes 7-19-22
2. 2022-12 Direct Seller Update

ARTICLE IV. DIRECT SELLERS AND SOLICITORS¹

¹State law reference(s)—Transient merchant, Wis. Stats. § 66.0423; solicitation of funds for charitable purposes, Wis. Stats. § 440.41; statewide peddler's license for residents who are disabled ex-soldiers, Wis. Stats. § 440.51; warning on contracts, Wis. Stats. § 241.27.

Sec. 11-129. Requirements.

No direct seller or solicitor shall engage in any activity governed by this Article without complying with the requirements applicable to the class of activity in which the direct seller or solicitor is engaged.

(Code 1998, § 7-4-1)

Sec. 11-130. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

- (a) *Charitable organization.* Any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation described in § 501(c)(3) of the Internal Revenue Code and exempted from income taxes under § 501(a) of that code.
- (b) *Contribution.* The promise or grant of any money or property of any kind or value, including net proceeds from sales of tickets, and donations required by the solicitor for the retention of goods by a donor or prospective customer.
- (c) *Direct seller.* Any individual who, for such individual, or for a partnership, association, limited liability corporation, limited liability partnership or corporation, sells goods or services, or takes orders for the later delivery of goods or services, at any location other than the permanent business place or residence of said individual, partnership, association or corporation, including, but not be limited to, peddlers, hawkers, and transient merchants.
- (d) *Goods.* Personal property of any kind, including goods provided incidental to services offered or sold.
- (e) *Permanent merchant.* A person who, for at least one year prior to the consideration of the application of this Article to said merchant:
 - (1) Has continuously operated an established business at a physical location within the Village; or
 - (2) Has continuously resided in the Village for at least one year and currently does business from such seller's residence.
- (f) *Person.* All humans of any age or sex, partnerships, corporations, associations, groups, organizations and any other description of a collection of human beings working in concert or for the same purpose or objective.
- (g) *Solicitor.* Any person who plans, conducts, manages, or carries on any drive or campaign in the Village for the purpose of soliciting contributions for or on behalf of any charitable organization or any other person, or who engages in the business of or holds said person out to persons in this state as independently engaged in the business of soliciting contributions for such purpose.
- (h) *Farmers' market.* A temporary food market at which locally produced fruits, vegetables, meats, cheeses, baked goods, and hand-crafted items are sold directly to consumers.

(Code 1998, § 7-4-2; Ord. No. 2003-02, § 108, 1-27-2002; Ord. No. 2018-09 , § 1, 7-23-2018; Ord. No. 2019-12 , § 1, 6-24-2019)

Sec. 11-131. Exemptions.

The following shall be exempt from all provisions of this Article other than Section 11-134(2)—(4) and (6) and Section 11-133:

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- (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 person selling agricultural products from commercially zoned property which such person has grown unless such sales are made door-to-door;
 - (d) Any permanent merchant or employee thereof who takes orders away from the established place of business for goods or services regularly offered for sale by such merchant within this county and who delivers such goods in their regular course of business;
 - (e) Any person who has an established place of business within the McFarland School District where the goods or services 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) Reserved;~~(g) A person fundraising for a youth sport or activity, school club, or other not-for-profit community organization or club, in which the sale of goods is a component of the fundraising, including but not limited to, the sale of cookies, popcorn, and holiday decorations;
 - (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 solicitation of funds on behalf of said organization, provided that there has been submitted to the Village Clerk-Treasurer proof that such charitable organization is registered under Wis. Stats. § 440.41 et seq., or which is exempt from that statute's registration requirements;
 - (j) Any person selling goods when authorized pursuant to an event permit issued by the Village, pursuant to Chapter 36;
 - (k) Any person at a farmers' market selling fruits, vegetables, meats, cheeses, baked goods and hand-crafted items that the person or his or her family produced. This exemption does not extend to the resale or wholesale of products, and the sale of additional goods and products not produced by the seller or his or her family.

(Code 1998, § 7-4-3; Ord. No. 2003-02, § 109, 1-27-2002; Ord. No. 2017-12, §§ 88, 89, 6-26-2017; Ord. No. 2018-09, § 2, 7-23-2018; Ord. No. 2019-12, § 2, 6-24-2019)

Sec. 11-132. Direct seller license.

- (a) *Required information.* Applicants for a license as a direct seller must complete and return to the Village Clerk-Treasurer a license application furnished by the Village Clerk-Treasurer, which shall require the following information:
 - (1) Name, permanent address and telephone number, and temporary address, if any, from which business will be conducted;
 - (2) Age, height, weight, color of hair and eyes, and date of birth;
 - (3) Name, address and telephone number of the person, firm, association or corporation that the direct seller represents or is employed by, or whose merchandise is being sold;
 - (4) The time period for which the right to conduct business is desired;

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- (5) Nature of business or solicitation to be conducted and a brief description of the goods or services offered;
 - (6) Proposed method of delivery of goods, if applicable;
 - (7) Make, model and license number of any vehicle to be used by the applicant in the conduct of direct sales in the Village;
 - (8) Last cities, villages or towns, not to exceed three, where the applicant most recently conducted similar business or solicitation prior to making this application;
 - (9) Address and telephone number where the applicant can be contacted for at least seven days after leaving this Village or completing the direct sales activity, whichever occurs first;
 - (10) Statement as to whether the applicant has any pending criminal charges, and whether the applicant has been convicted of any misdemeanor crime or ordinance violation related to direct sales (other than parking and traffic violations) during the previous five (5) years, or solicitations, any felony crime within the previous ten (10) years, along with a description and the circumstances of the each violation or offense and the place of conviction.
- (b) *Documentation.* Applicants shall present to the Village Clerk-Treasurer for examination:
- (1) A driver's license or some other proof of identity as may be reasonably required;
 - (2) A state certificate of examination and approval from the sealer of weights and measures where the applicant's business requires use of weighing and measuring devices approved by state authorities;
 - (3) A state health officer's certificate where the applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that the 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;
 - ~~(4) A photograph approximately two inches by two inches showing the head and shoulders of such person, which was taken no more than one year prior to the application;~~
 - ~~(5) A copy of the applicant's fingerprints taken by any authorized law enforcement agency.~~
- (c) *Application fee.* At the time of filing the application, the fee established by the Village Board from time to time and provided in Appendix A to this Code shall be paid to the Village Clerk-Treasurer to cover the cost of processing the application and investigation of the applicant.
- (d) *Investigation.* Upon receipt of the application, the Village Clerk-Treasurer shall refer it immediately to the Chief of Police, who shall cause a complete investigation of the applicant based upon the information in the application and report the findings of such investigation to the Village Clerk-Treasurer.
- (e) *Issuance of license.*
- (1) *Standards for issuance.* The Village Clerk-Treasurer shall issue a license authorizing the direct sales described in the application as soon as practicable following receipt of a report from the Chief of Police, unless the Village Clerk-Treasurer determines one or more of the following:
 - (a) The application is incomplete, or information required by Subsection (a) has not been provided.
 - (b) The application or supporting documents contain any false or materially misleading information or any material omission.
 - (c) The applicant has pending criminal charge that is substantially related to the licensed activity and is an "exempt offense" as defined under Subsection (f)(2) or is a violent crime against a child, or the applicant been convicted of a felony, misdemeanor, crime or ordinance violation ~~or other~~

~~offense during the previous five (5) years, or a felony crime during the previous ten (10) years,~~
the circumstances of which substantially relate to the circumstances of direct sales activities.

- (2) *License provisions.* If the Village Clerk-Treasurer determines that the applicant meets the requirements of this Section, or if the Village Board determines to issue the license after appeal, the Village Clerk-Treasurer shall issue a license to the applicant as a direct seller and date the entry. Licenses may be issued with an effective period of seven days, 30 days or the calendar year. The licensee shall thereupon sign a statement appointing the Village Clerk-Treasurer as agent for receipt of service of process in any civil action brought against the applicant arising out of the performance or nonperformance of any sale or service performed by the licensee in connection with the direct sales activities in the event the licensee cannot, after reasonable effort, be served personally. All licenses are subject to subsequent revocation, as provided in Section 11-136.
- (f) *Non-issuance by the Village Clerk-Treasurer.*
- (1) Except as provided in Subsection (2), if an application is not approved by the Village Clerk-Treasurer pursuant to Subsection (e)(1)(c), the Village Clerk-Treasurer shall provide to the applicant in writing a statement of the reasons for the denial, including a statement of how the circumstances of each offense which is the basis for the denial relates to direct sales activities, and provide a copy of the written denial to the applicant. ~~The written notice to the applicant shall also provide the applicant with the opportunity pursuant notice of a right to Wis. Stats § 111.335(4)(c), to provide evidence to the Village Board at a hearing under paragraph (g) demonstrating that he or she has been rehabilitated and~~. Written notice is fit to engage in the direct sales activities. complete upon mailing.
- (2) Subsection (1) does not apply to any offense that constitutes an "exempt offense," which includes a violation specified in Wis. Stats. Ch. 940, Wis. Stats. §§ 948.02, 948.025, 948.03, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, 948.095, or a violation of the law of another jurisdiction that would be a violation of an above-described offense if committed in this state.
- (g) *Appeals.*
- (1) Any person whose application has not been approved by the Village Clerk-Treasurer, may appeal that decision to the Public Safety Committee by providing written notice to the Village Board in writing Clerk-Treasurer within 14 days of the Village Clerk-Treasurer mailing notice of denial of the decision. The procedure for such license.
- (2) Upon appeal, the Public Safety Committee shall ~~follow Section 11-1(d)~~ conduct a hearing to make a recommendation to the Village Board regarding issuance of the direct seller's license. If the applicant fails to appear before the Public Safety Committee, the Public Safety Committee shall forward a recommendation for non-issuance of the license. At the hearing, both the Village and ~~(e)~~ the applicant may introduce evidence, produce witnesses, cross-examine witnesses and be represented by counsel. The hearing shall be recorded.
- (3) Upon any appeal of a license denial based in whole or part on Section 11-132(e)(1)(~~ec~~), the ~~Board~~ Public Safety Committee shall consider any evidence of rehabilitation presented by the applicant pursuant to Wis. Stats. § 111.335(4)(d). If the applicant demonstrates rehabilitation and fitness to engage in direct sales activities, the ~~Board~~ Public Safety Committee shall grant the recommend issuance of license unless it finds grounds other than the applicant's conviction record for denying the application.
- (4) The Village Board shall issue written findings and a decision regarding the issuance of the license within 30 days after the hearing.

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(Code 1998, § 7-4-4; Ord. No. 98-20, § 2, 12-14-1998; Ord. No. 2002-02, § 5, 1-14-2002; Ord. No. 2003-02, §§ 110—113, 1-27-2002; Ord. No. 2017-12, §§ 90—93, 6-26-2017; Ord. No. 2018-09, § 3, 7-23-2018; Ord. No. 2020-10, § 1, 2-24-2020)

Sec. 11-133. Solicitors registration procedure.

- (a) Applicants for registration as a solicitor shall complete and return to the Village Clerk-Treasurer a signed registration form furnished by the Village Clerk-Treasurer containing the following information:
 - (1) Name, address, and telephone number of the charitable person, firm, association, organization or corporation that the solicitor represents or is employed by, together with credentials establishing the relationship;
 - (2) Purpose of the charitable organization;
 - (3) Names, permanent addresses, and telephone numbers of the persons who will actually engage in the soliciting, together with the time periods and routes on which the persons will solicit;
 - (4) A statement of whether the charitable organization is registered with the Wisconsin Department of Regulation and Licensing under Wis. Stats. § 440.41 et seq.;
- (b) At the time for filing the application, the applicant shall present the following to the Village Clerk-Treasurer for examination:
 - (1) A driver's license or some other proof of identity as may be reasonably required;
 - ~~(2) A photograph approximately two inches by two inches showing the head and shoulders of such person, which was taken no more than one year prior to the application;~~
 - ~~(3)~~(2) If intending to solicit on behalf of a charitable organization required to be registered with the state, a complete copy of the organization's registration form and supporting materials under Wis. Stats. § 440.41 et seq., the latest annual report under Wis. Stats. § 440.41(4), and the registration materials, bond and contract under Wis. Stats. § 440.41(5), (6), and (7);
 - ~~(4)~~(3) If intending to solicit on behalf of a charitable organization not required to be registered with the state, a copy of the charitable organization's latest filed federal tax form.
- (c) No fee shall be charged for registration of solicitors. The Village Clerk-Treasurer shall examine the application and supporting documents. If the application and supporting documents are complete, the Village Clerk-Treasurer shall register the applicant as a solicitor. The registration shall be valid for one year from the date of issuance.

(Code 1998, § 7-4-5; Ord. No. 2003-02, §§ 114—116, 1-27-2002; Ord. No. 2017-12, §§ 94—96, 6-26-2017; Ord. No. 2018-09, § 4, 7-23-2018)

Sec. 11-134. General regulation of direct sellers and solicitors.

- (a) *Prohibited practices.*
 - (1) A direct seller or solicitor shall be prohibited from: calling at any dwelling or other place between the hours of 9:00 p.m. and 9:00 a.m. and all day on legal holidays, except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning; or remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.

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- (2) No direct seller or solicitor shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.
 - (3) No direct seller or solicitor shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a 100-foot radius of the source.
 - (4) No direct seller or solicitor shall allow rubbish or litter to accumulate in or around the area in which such direct seller or solicitor is conducting business.
 - (5) No direct seller or solicitor may call at the rear door of any dwelling except by prior appointment.

~~(6) No direct seller or solicitor may remain on any premises after being asked to leave by the owner, occupant, or other person having apparent authority over the premises.~~

- (b) *Disclosure requirements.* After the initial greeting and before any other statement is made to a prospective customer, a direct seller or solicitor shall expressly disclose the direct seller or solicitor's name, the name of the company or organization the direct seller or solicitor is affiliated with, if any, the identity of goods or services the direct seller or solicitor offers to sell and the purpose of the contact. Each such seller or solicitor shall carry proof in the form of a photo identification card issued and executed by the organization for whom the individual is selling or soliciting demonstrating that the individual is authorized to act on behalf of the company or organization, as well as a copy of the registration or license issued by the Village Clerk-Treasurer. The photo identification card shall be visible at all times when engaged in selling or soliciting. The direct seller or solicitor shall produce such proof and registration or license for inspection by the individual or by any law enforcement officer immediately upon request.

(Code 1998, § 7-4-6; Ord. No. 2003-02, § 117, 1-27-2002; Ord. No. 2017-12, § 97, 6-26-2017; Ord. No. 2018-09, § 5, 7-23-2018)

Sec. 11-135. Additional regulation of direct sellers.

- (a) A direct seller shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity, or character of goods or services offered for sale, or the purpose of the visit, or the identity of the organization represented.
- (b) If any sale of goods is made by a direct seller or any sales order for the later delivery of goods is taken by the seller, the buyer shall have the right to cancel said transaction if it involves the extension of credit or is a cash transaction of more than \$25.00, in accordance with the procedure as set forth in Wis. Stats. § 423.203; the seller shall give the buyer two copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of Wis. Stats. § 423.203(1), (2) and (3).
- (c) If the direct seller takes a sales order for the later delivery of goods, the direct seller shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance, whether full, partial or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date and whether a guarantee or warranty is provided and, if so, the terms thereof.

(Code 1998, § 7-4-7; Ord. No. 2018-09, § 6, 7-23-2018)

Sec. 11-136. Revocation of licenses.

- (1) *Grounds.* Any license issued under this section may be revoked by the Village Board after notice and hearing if:

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- (a) The seller made any material omission or any false, materially misleading or otherwise untrue statement in the application for a license.
 - (b) The seller has made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales.
 - (c) The seller has violated any provision in this chapter.
 - (d) The seller has been convicted of any felony, misdemeanor, ordinance violation or other offense, the circumstances of which substantially relate to the circumstances of direct sales activities, and the seller fails to show competent evidence of sufficient rehabilitation and fitness to perform direct sales activities.
- (2) *Revocation hearing.*
- (a) *Notice of hearing.* Written notice of a hearing before the Public Safety Committee on the revocation of any license issued under this section shall be mailed to the licensee at the permanent address shown on the registration at least seven days, or 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.
 - (b) *Hearing.*
The Public Safety Committee shall conduct a hearing to make a recommendation to the Village Board regarding revocation of the direct seller's license. If the licensee fails to appear before the ~~Village Board on the date indicated on the notice~~ Public Safety Committee, the Public Safety Committee shall forward to the Village Board ~~shall revoke the licensee's direct seller license. If the licensee appears before the Village Board on the date indicated in the notice and denies that the reasons~~ a recommendation for revocation ~~exist, the Village Board shall conduct a hearing with respect to the matter~~ of the license. At the hearing, both the Village and the seller may introduce evidence, produce witnesses, cross-examine witnesses and be represented by counsel. The ~~licensee hearing~~ shall, ~~upon request~~, be ~~provided a written transcript of the hearing at the seller's expense recorded.~~ The Village Board shall issue findings and a decision within 30 days after the ~~date of the~~ hearing.
- (3) *Temporary suspension.* Any law enforcement officer who has probable cause to believe that a person issued a license or permit under this chapter has committed a criminal offense or violated any provision of this chapter in the course of direct sales or solicitation activities may immediately suspend the person's license or permit pending a hearing under Subsection (2). The suspension shall be immediately reported to the Village Clerk/Treasurer who shall schedule a hearing as soon as practicable, unless review of the suspension is waived by the licensee or permittee.

(Ord. No. 2018-09 , § 7, 7-23-2018)

Secs. 11-137—11-153. Reserved.

ORDINANCE 2022-11

AN ORDINANCE AMENDING THE LICENSING PROCESS FOR DIRECT SELLERS

Purpose: To amend the licensing process for direct sellers and solicitors.

Sponsor: Village Clerk-Treasurer Cassandra Suettinger

Recommended Referral: Public Safety Committee

Public Hearing: Not Required

WHEREAS, the Village Board accepts the recommendations of the Public Safety Committee and Village staff and finds that it is in the public interest to amend the McFarland Municipal Code to authorize the Public Safety Committee to hear appeals regarding license applications and to make other procedural changes to the application process for direct sellers.

1. Subsection 11-131(g) of the McFarland Municipal Code is hereby amended to read as follows:

(g) A person fundraising for a youth sport or activity, school club, or other not-for-profit community organization or club, in which the sale of goods is a component of the fundraising, including but not limited to, the sale of cookies, popcorn, and holiday decorations;

2. Section 11-132 of the McFarland Municipal Code is hereby amended to read as follows:

Sec. 11-132. Direct seller license.

- (a) *Required information.* Applicants for a license as a direct seller must complete and return to the Village Clerk-Treasurer a license application furnished by the Village Clerk-Treasurer, which shall require the following information:
- (1) Name, permanent address and telephone number, and temporary address, if any, from which business will be conducted;
 - (2) Age, height, weight, color of hair and eyes, and date of birth;
 - (3) Name, address and telephone number of the person, firm, association or corporation that the direct seller represents or is employed by, or whose merchandise is being sold;
 - (4) The time period for which the right to conduct business is desired;
 - (5) Nature of business or solicitation to be conducted and a brief description of the goods or services offered;

- (6) Proposed method of delivery of goods, if applicable;
 - (7) Make, model and license number of any vehicle to be used by the applicant in the conduct of direct sales in the Village;
 - (8) Last cities, villages or towns, not to exceed three, where the applicant most recently conducted similar business or solicitation prior to making this application;
 - (9) Address and telephone number where the applicant can be contacted for at least seven days after leaving this Village or completing the direct sales activity, whichever occurs first;
 - (10) Statement as to whether the applicant has any pending criminal charges, and whether the applicant has been convicted of any misdemeanor crime or ordinance violation (other than parking and traffic violations) during the previous five (5) years, or any felony crime within the previous ten (10) years, along with a description and the circumstances of each violation or offense.
- (b) *Documentation.* Applicants shall present to the Village Clerk-Treasurer for examination:
- (1) A driver's license or some other proof of identity as may be reasonably required;
 - (2) A state certificate of examination and approval from the sealer of weights and measures where the applicant's business requires use of weighing and measuring devices approved by state authorities;
 - (3) A state health officer's certificate where the applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that the 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;
- (c) *Application fee.* At the time of filing the application, the fee established by the Village Board from time to time and provided in Appendix A to this Code shall be paid to the Village Clerk-Treasurer to cover the cost of processing the application and investigation of the applicant.
- (d) *Investigation.* Upon receipt of the application, the Village Clerk-Treasurer shall refer it immediately to the Chief of Police, who shall cause a complete investigation of the applicant based upon the information in the application and report the findings of such investigation to the Village Clerk-Treasurer.
- (e) *Issuance of license.*
- (1) *Standards for issuance.* The Village Clerk-Treasurer shall issue a license authorizing the direct sales described in the application as soon as practicable following receipt of a report from the Chief of Police, unless the Village Clerk-Treasurer determines one or more of the following:
 - (a) The application is incomplete, or information required by Subsection (a) has not been provided.
 - (b) The application or supporting documents contain any false or materially misleading information or any material omission.

- (c) The applicant has pending criminal charge that is substantially related to the licensed activity and is an "exempt offense" as defined under Subsection (f)(2) or is a violent crime against a child, or the applicant been convicted of a misdemeanor crime or ordinance violation during the previous five (5) years, or a felony crime during the previous ten (10) years, the circumstances of which substantially relate to the circumstances of direct sales activities.
- (2) *License provisions.* If the Village Clerk-Treasurer determines that the applicant meets the requirements of this Section, or if the Village Board determines to issue the license after appeal, the Village Clerk-Treasurer shall issue a license to the applicant as a direct seller and date the entry. Licenses may be issued with an effective period of seven days, 30 days or the calendar year. The licensee shall thereupon sign a statement appointing the Village Clerk-Treasurer as agent for receipt of service of process in any civil action brought against the applicant arising out of the performance or nonperformance of any sale or service performed by the licensee in connection with the direct sales activities in the event the licensee cannot, after reasonable effort, be served personally. All licenses are subject to subsequent revocation, as provided in Section 11-136.
- (f) *Non-issuance by the Village Clerk-Treasurer.*
 - (1) Except as provided in Subsection (2), if an application is not approved by the Village Clerk-Treasurer pursuant to Subsection (e)(1)(c), the Village Clerk-Treasurer shall provide to the applicant in writing a statement of the reasons for the denial, including a statement of how the circumstances of each offense which is the basis for the denial relates to direct sales activities, and provide a copy of the written denial to the applicant. The written notice to the applicant shall also provide notice of a right to a hearing under paragraph (g). Written notice is complete upon mailing.
 - (2) Subsection (1) does not apply to any offense that constitutes an "exempt offense," which includes a violation specified in Wis. Stats. Ch. 940, Wis. Stats. §§ 948.02, 948.025, 948.03, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, 948.095, or a violation of the law of another jurisdiction that would be a violation of an above-described offense if committed in this state.
- (g) *Appeals.*
 - (1) Any person whose application has not been approved by the Village Clerk-Treasurer may appeal that decision to the Public Safety Committee by providing written notice to the Village Clerk-Treasurer within 14 days of the Village Clerk-Treasurer mailing notice of denial of the license.
 - (2) Upon appeal, the Public Safety Committee shall conduct a hearing to make a recommendation to the Village Board regarding issuance of the direct seller's license. If the applicant fails to appear before the Public Safety Committee, the Public Safety Committee shall forward a recommendation for non-issuance of the license. At the hearing, both the Village and the applicant may introduce evidence, produce witnesses, cross-examine witnesses and be represented by counsel. The hearing shall be recorded.

- (3) Upon any appeal of a license denial based in whole or part on Section 11-132(e)(1)(c), the Public Safety Committee shall consider any evidence of rehabilitation presented by the applicant pursuant to Wis. Stats. § 111.335(4)(d). If the applicant demonstrates rehabilitation and fitness to engage in direct sales activities, the Public Safety Committee shall recommend issuance of license unless it finds grounds other than the applicant's conviction record for denying the application.
- (4) The Village Board shall issue written findings and a decision regarding the issuance of the license within 30 days after the hearing.

3. Subsection 11-133 (b) of the McFarland Municipal Code is hereby amended to read as follows:

- (b) At the time for filing the application, the applicant shall present the following to the Village Clerk-Treasurer for examination:
 - (1) A driver's license or some other proof of identity as may be reasonably required;
 - (2) If intending to solicit on behalf of a charitable organization required to be registered with the state, a complete copy of the organization's registration form and supporting materials under Wis. Stats. § 440.41 et seq., the latest annual report under Wis. Stats. § 440.41(4), and the registration materials, bond and contract under Wis. Stats. § 440.41(5), (6), and (7);
 - (3) If intending to solicit on behalf of a charitable organization not required to be registered with the state, a copy of the charitable organization's latest filed federal tax form.

4. Subsection 11-134(a) of the McFarland Municipal Code is amended to read as follows:

- (a) *Prohibited practices.*
 - (1) A direct seller or solicitor shall be prohibited from: calling at any dwelling or other place between the hours of 9:00 p.m. and 9:00 a.m. and all day on legal holidays, except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning; or remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.
 - (2) No direct seller or solicitor shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.
 - (3) No direct seller or solicitor shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a 100-foot radius of the source.

- (4) No direct seller or solicitor shall allow rubbish or litter to accumulate in or around the area in which such direct seller or solicitor is conducting business.
- (5) No direct seller or solicitor may call at the rear door of any dwelling except by prior appointment.

5. Section 11-136 of the McFarland Municipal Code is amended to read as follows:

Sec. 11-136. Revocation of licenses.

- (1) *Grounds.* Any license issued under this section may be revoked by the Village Board after notice and hearing if:
 - (a) The seller made any material omission or any false, materially misleading or otherwise untrue statement in the application for a license.
 - (b) The seller has made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales.
 - (c) The seller has violated any provision in this chapter.
 - (d) The seller has been convicted of any felony, misdemeanor, ordinance violation or other offense, the circumstances of which substantially relate to the circumstances of direct sales activities, and the seller fails to show competent evidence of sufficient rehabilitation and fitness to perform direct sales activities.
- (2) *Revocation hearing.*
 - (a) *Notice of hearing.* Written notice of a hearing before the Public Safety Committee on the revocation of any license issued under this section shall be mailed to the licensee at the permanent address shown on the registration at least seven days, or shall be served personally 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.
 - (b) *Hearing.*

The Public Safety Committee shall conduct a hearing to make a recommendation to the Village Board regarding revocation of the direct seller's license. If the licensee fails to appear before the Public Safety Committee, the Public Safety Committee shall forward to the Village Board a recommendation for revocation of the license. At the hearing, both the Village and the seller may introduce evidence, produce witnesses, cross-examine witnesses and be represented by counsel. The hearing shall be recorded. The Village Board shall issue findings and a decision within 30 days after the hearing.
- (3) *Temporary suspension.* Any law enforcement officer who has probable cause to believe that a person issued a license or permit under this chapter has committed a criminal offense or violated any provision of this chapter in the course of direct sales or solicitation activities may immediately suspend the person's license or permit pending a hearing under Subsection (2). The suspension shall be immediately reported to the Village Clerk-Treasurer who shall

schedule a hearing as soon as practicable, unless review of the suspension is waived by the licensee or permittee.

The above and foregoing Ordinance was duly adopted at a regular meeting of the McFarland Village Board on the _____ day of _____, 2022.

APPROVED:

Carolyn Clow, Village President

ATTEST:

Cassandra Suettinger, Village Clerk-
Treasurer

ORDINANCE 2022 – 12	
MOTION	SECOND
ACTION	DATE
Adopted	
Referred	
Tabled	
Withdrawn	
Defeated	
Published	
INDIVIDUAL VOTING RECORD	
Brandt -	Jerke -
Brassington -	Nelson -
Clow -	Wrehs -
Flaherty -	
VOTING RESULTS	
Motion Carried	
Motion Defeated:	

**VILLAGE OF
McFarland
SUMMARY SHEET**

MEETING DATE: Wednesday, September 7, 2022

SECTION: Business

DEPARTMENT: Administration

CONTACT: Matt Schuenke, Village Administrator

AGENDA ITEM: Discussion and recommendation on updates to the noise ordinance and standardizing noise requirements in the Village Code of Ordinances.

PREVIOUS ACTION:

The Parks and Recreation Committee reviewed changes relative to parks at their meeting on August 2, 2022. They unanimously recommended its approval for the park related items.

The Sustainability and Natural Resources Committee is scheduled to review the changes on September 12, 2022.

ISSUE SUMMARY:

Please find enclosed several changes to Village Ordinance pertaining to regulations surrounding noise. This is a topic Staff has been working on refining within our code across Community Development, Public Works (Parks), and the Police Department. The changes included in your packet were prepared upon recommendation for the Village Attorney (his comments in red).

Other comments were included by Staff where applicable. The Village Attorney also provided some brief background on why he suggested the change that is included.

We will go through these changes in the meeting as a means to make a recommendation to the Village Board when our review is complete.

FINANCIAL/BUDGET IMPACT:

There are no cost implications for these changes.

VILLAGE PLAN REFERENCE:

None.

ORDINANCE REFERENCE:

Reference and links to Village Ordinance are included within the enclosed document summarizing the changes.

BOARD, COMMISSION OR COMMITTEE RECOMMENDATION:

Following review, Staff recommends the Committee recommend to the Village Board adoption of the changes prepared by the Village Attorney to the Village Ordinances surrounding noise.



ATTACHMENTS:

1. Noise Ordinance Revision Worksheet 08302022 mgs

Proposed Revisions to Noise Regulations within Village Code of Ordinances

Chapter 11

Business

Hyperlinks provided to full code section within the enumeration.



Sec. 11-64. - **Conditions of license.** **[Alcohol Beverage Licensed Premises]**

(c) *Orderly conduct.* Each licensed premises shall, at all times, be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises. Noise emanating from the licensed premises shall be controlled in compliance with Chapter 20, Article III of this Code

[Revisor Note: This change will incorporate the standard noise limits to all aspects of liquor licensed premises, rather than just outdoor seating and outdoor sporting activities]

* * *

~~11-64(n)(4)d. Amplified music, speakers, microphones, televisions or other audio or video devices shall be subject to Chapter 20, Article III of the Village Code of Ordinances regarding Noise and Section 11-69(f) if applicable.~~

[Revisor note: Not necessary given application of Chapter 20 to all noise]

Sec. 11-69. - **Outdoor sports activities regulated.** **[On liquor licensed premises]**

(f) *Standards.* The following standards shall apply to any outdoor sports activity regulated under this Section:

* * *

~~(9) Amplified music, audio speakers, microphones, televisions or other audio or video devices are prohibited.~~

[Change treats amplified music the same as other noises which are regulated by volume affecting neighboring properties]

Sec. 11-69(h):

~~(h) Noise. The licensee shall not permit the noise level of the activity or event to exceed 75 dB, measured at any border of the licensee's real property.~~

[All noises regulated by Chapter 20]

Sec. 11-134. - General regulation of direct sellers and solicitors.

(a) Prohibited practices.

* * *

~~(3) No direct seller or solicitor shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a 100-foot radius of the source.~~

Sec. 11-264. - Regulations. [Adult Entertainment]

All license holders shall comply with the following regulations as each apply to the activities permitted under the license issued:

* * *

(4) Good order shall be maintained at all times. Without limitation due to enumeration, a lack of "good order" for purposes of this Section shall be deemed to include ~~persistent~~ loud noises ~~to the annoyance or detriment of surrounding property owners~~ in violation of Chapter 20, Article III of this Code, patrons urinating in public, profane language and/or fighting.

[Adult entertainment is subject to First Amendment protections, so applying a different noise standard is risky. This keeps the standard the same for all bars.]

Chapter 20

Environment

Sec. 20-58. - Loud and unreasonable noise prohibited.

No person shall make or assist in making any unreasonable noise tending to ~~unreasonably~~ disturb the peace and quiet of persons in the vicinity thereof unless the making and continuing of the same cannot be prevented ~~and-or~~ is necessary for the protection or preservation of property or of the health, safety, life, or limb of some person.

[While this standard is subjective, it is worth keeping, since noise measurements might not be possible in all cases. For example, kids turn down the music as soon as the cops show up, and then crank it back up when then leave.]

Sec. 20-59. - Types of loud and unreasonable noises.

The following acts are declared to be loud, disturbing and unreasonable noises in violation of this Section, but this enumeration shall not be deemed to be exclusive, nor a limitation upon the prohibition in ~~Subsection (a)~~Section 20-58:

[The reference to Subsection (a) was a misplaced cross-reference. I assume this change is what was intended.]

* * *

(b) *Radios, phonographs, similar devices.* The using, operating or permitting to be played, used or operated any radio receiving set; musical instrument, phonograph or other machine or device for the producing or reproducing of sound in a loud and unreasonable manner. ~~The operation of any set, instrument, phonograph, machine or device between the hours of 10:00 p.m. and 7:00 a.m. in a manner as to be plainly audible at the property line of the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this Section.~~

[What is “unreasonable” depends in part on the time of day. Since noise levels are being standardized, deleted language seems unnecessary.]

* * *

~~(c) *Steam whistles.* The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger or upon request of proper Village authorities.~~

[Given the proliferation of alarm clocks over the last 80 years, the use of steam whistles to tell people it is time to go to work should be sent back to 1940]

* * *

(g) ~~Construction or repair of buildings.~~ The erection (including excavation), demolition, alteration or repair of any building or the making of any alteration or improvement to land, as well as the operation of any pile driver, ~~steam shovel~~, pneumatic hammer, derrick, ~~steam or electric~~ hoist, or any other similar equipment, attended by loud or unusual noise, other than between the hours of 7:00 a.m. and 8:00 p.m.; provided, however, the Building Inspector shall have the authority, upon determining that the loss ~~of or~~ inconvenience, which would result to any party in interest, would be extraordinary and of such nature as to warrant special consideration, to grant a permit for a period necessary within which time such work and operation may take place within the hours of 8:00 p.m. to 7:00 a.m.

[Standardizes noise levels for all sources]

(h) *Schools, courts, houses of worship, hospitals.* The creation of any excessive noise on any street adjacent to any school, institution of learning, house of worship or court while in use, or adjacent to any hospital, which unreasonably interferes with the normal operation of that institution, or which disturbs or unduly annoys patients in the hospital, provided that conspicuous signs are displayed in those streets indicating the presence of a school, hospital or court ~~street~~.

[Grammatical correction]

DIVISION 2. - ~~STATIONARY MAXIMUM SPECIFIC~~ NOISE LIMITS

Sec. 20-77. - Maximum permissible sound levels.

[Not clear why code distinguished between stationary and nonstationary sources as the impact is the same. Bass booming from a passing vehicle is perhaps more annoying than factory noise]

(a) ~~Noise.~~ Except as provided in sub. (c), noise emanating from any person in control of any private property within the Village shall allow noise emanating from a stationary source that property to shall not be presumed to be unreasonable if it exceed the following standards for limits as measured at any point on a neighboring (receiving) property. r maximum sound pressure levels measured at the property line.

[Applies a consistent standard based on the party affected by the noise]

Zone	Noise Rating	Noise Rating
	Daytime	Nighttime
Urban Residential	60 dB	50 dB
Commercial	70 dB	70 dB
All other zones	75 dB	75 dB

<u>Receiving Parcel Land Use</u>	<u>Zoning Districts</u>	<u>Maximum 7:00 a.m. to 9:00 p.m.</u>	<u>Maximum 9:01 p.m. to 6:59 a.m.</u>
<u>Residential</u>	<u>RH-1, R-1, R-1A, R-1B, R-2, R-3, R- E, PD & PD-I not mixed use</u>	<u>65 dBA</u>	<u>60 dBA</u>
<u>Commercial</u>	<u>C-C, C-G, C-H, C- L, PD & PD-I mixed use</u>	<u>70 dBA</u>	<u>70 dBA</u>
<u>All other districts</u>		<u>75 dBA</u>	<u>75 dBA</u>

~~(b) Ambient noise is the all-encompassing noise associated with a given source, usually being a composite of sounds with many sources near and far, but excluding the noise source being measured. Ambient noise is a factor and the subject noise shall exceed the ambient noise by five db in any octave band to be designated excessive.~~

~~(b) Noise levels in public parks. Noise generated within public parks shall be presumed to be unreasonable if it exceeds the following limits as measured 150' from the source or at the property line of the park if less than 150':~~

<u>Community Parks</u>	<u>Maximum Level</u>
<u>Arnold Larson Park</u> <u>Brandt Park</u> <u>Lewis Park</u> <u>McDaniel Park</u> <u>William McFarland Park</u>	<u>75 dBA</u>
<u>Neighborhood Parks</u> <u>Autumn Groove Park</u> <u>Beckler Street Lake Access</u> <u>Bellevue Court Lake Access</u> <u>Cedar Ridge Park</u> <u>Discovery Garden Park</u> <u>Eco Park</u> <u>Egner Park</u> <u>Field Avenue Lake Access</u> <u>Juniper Ridge Parks</u> <u>Highland Oaks Park</u> <u>Lakeview Avenue Lake Access</u> <u>Larson Street Lake Access</u> <u>Legion Memorial Park</u> <u>Orchard Hill Park</u> <u>Ridgeview Tot lot</u>	<u>65 dBA</u>

<u>Rosewood Fields Park</u> <u>Siggelow Road Park</u> <u>South Court Lake Access</u> <u>Valley Tot lot</u> <u>Wisconsin Avenue Lake Access</u> <u>Woodland Estates Park</u>	
--	--

(c) Exceptions.

(1) This section shall not apply in any case where the occupants of all properties receiving noise in excess of the prescribed limits have consented to an exceedance of such limits.

(2) Construction equipment in any zone may be operated between the hours of 7:00 am and 8:00 pm provided that said equipment does not exceed a maximum sound level of 80 db(a) measured at the property line of the location at which said equipment is in use and where applicable a valid building permit is in effect.

[Moving this standard from Sec. 20-78 above to allow for a higher threshold when needed during construction.]

~~(c) Pure tones and impulsive noises are factors. Five noise rating numbers shall be taken from the table in Subsection (a) of this Section, if the subject noise consists primarily of a pure tone or if it is impulsive in character.~~

[Not sure this really matters. If it does, we should define “pure tone” and “impulsive” in the ordinance]

Sec. 20-78.—Construction noise.

~~Construction equipment in any zone may be operated between the hours of 7:00 a.m. and 7:00 p.m., provided that said equipment does not exceed a maximum sound level of 80 db(a) measured at the property line of the location at which said equipment is in use.~~

[To standardize all sources]

Sec. 20-79.—Noise in Residential Districts.

~~In Residential Zones, the person in violation of this Article shall be ordered to reduce the sound pressure to acceptable levels immediately by the monitoring officer.~~

[Not sure why this is in the code. Anyone causing excessive noise in any zone should be told to turn it down and cited if they don’t.]

Sec. 20-80. - Operation of certain equipment.

Lawnmowers, chainsaws, powered garden equipment, electric insect killing/repelling devices, and other non-construction maintenance equipment shall be operated only during the hours between 7:00 a.m. and 9:00 p.m. unless within the specified noise levels measured at the property line of the location at which said equipment is in use. This section does not apply to the normal operation of snow removal equipment.

[Standardized with other sources]

Sec. 20-81. - Exemptions.

~~Operations~~ ~~The provisions of this Article shall not apply to any of the following:~~

- ~~(a) The operator of emergency equipment shall be exempt from this Article. Snow blowers not operated on a commercial basis shall be exempt from this Article when used to gain access to a Village street or clear a sidewalk. Emergency equipment shall include including any ambulance, police, fire, or emergency medical vehicle or equipment, public snow removal, civil defense or weather alert sirens, etc., and other equipment used in providing public services necessary for the health, safety, and protection of the citizens of the Village.~~
- ~~(b) The use of motorized vehicles or equipment to remove snow or ice from vehicular and pedestrian ways.~~
- ~~(c) The operation of any vehicle or other sound producing device that is being used in a community event or celebration, procession or assemblage.~~
- ~~(d) The operation of a theft alarm signaling device.~~
- ~~(e) The operation of a motor vehicle outside of a residential or business district; or~~
- ~~(a)(f) The use of a horn, whistle or other sound producing device to request emergency assistance or to warn against an unsafe condition.~~

[Broadened to exempt Village operations]

Sec. 20-82. - Methods of measuring noise.

(a) *Equipment.* Noise measurement shall be made with a sound level meter.

(b) *Location of ~~noise-sound~~ meter.* Noise measurement shall be made at the ~~nearest~~ lot line of ~~the~~ a receiving premises ~~from which a noise complaint is received~~. The ~~noise-sound~~ meter shall be placed at a height of at least three feet above the ground and at least three feet away from walls, barriers, ~~obstructions~~, and ~~all~~ other sound reflective surfaces.

[Standardizes noise levels to focus on receiving property]

Sec. 20-83. - Appeals.

The Village Board may grant an exemption or modification to the requirements of this Chapter to individuals a person proving evidence of demonstrating substantial and unreasonable hardship resulting from the application of these regulations. Evidence that reasonable technological attempts have been made to correct the problem shall be considered grounds for granting an exemption to this Article for existing industries. Such exemptions may be conditioned on operational limitations or other provisions determined by the Village Board to be necessary to protect the public interest.

[Presumably, a full waiver of noise requirements will never be appropriate. This change expressly allows for modification of the noise limit or hours of operation on a case-by-case basis.]

Chapter 35

Motor Vehicles and Traffic

Sec. 35-10. - Disturbance of the peace with a motor vehicle.

No driver of any vehicle, including motorcycles, all-terrain vehicles and bicycles, shall cause, by excessive and unnecessary acceleration, the tires of such vehicle or cycle to spin and emit loud noises or to unnecessarily throw stones or gravel; nor shall such driver cause to be made by excessive and unnecessary acceleration any loud noise as would unreasonably disturb the public peace.

[Incorporates the “reasonable person” standard to avoid void for vagueness challenges]

Chapter 36

Events Requiring a Permit

Sec. 36-4. - Application. **[Special Events]**

A person seeking to hold an event shall file an application with the Village Clerk on the form provided by the Village Clerk. The completed application shall be filed at least 45 days before the proposed event, along with the application fee. The application shall contain, but is not limited to, the following information:

* * *

(o) Events that anticipate the use of amplified sound, or to in ~~some-any~~ manner generate excessive noise; beyond ~~109:00~~ p.m. requires an exemption from the Village Board ~~approval~~under Sec. 20-83. It shall be the event organizer's responsibility to request this approval on the application form.

[Cross-references back to appeal provisions in noise chapter].

Chapter 38

Offenses

Sec. 38-30. - Disorderly conduct; indecent exposure.

(a) *Disorderly conduct prohibited.* No person within the Village shall:

(1) In any public or private place engage in violent, ~~noisy~~, riotous, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct, which tends to cause or provoke an immediate disturbance of public order or which unreasonably tends to annoy ~~or disturb any~~ other a reasonable person.

(2) Intentionally cause, provoke or engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.

~~(b) Disorderly conduct with motor vehicle. No person shall make unnecessary and annoying noises with a motor vehicle, including motorcycles and all terrain vehicles, by squealing tires, excessive acceleration of the engine or by emitting unnecessary and loud muffler noise.~~

[This is covered by 35-10]

Chapter 44

Parks and Recreation

Sec. 44-20. - Specific regulations.

* * *

(b) Sound devices. No person shall operate or play any amplifying system on the following public lands unless specific authority is first obtained from the Parks and Recreation Committee, ~~unless the person is seeking or the amplifying system is approved as part of~~ a special event license, ~~for which the Public Safety Committee has initial jurisdiction.~~ issued under Chapter 36:

Babcock Conservancy
Grand View Conservancy
Indian Mound Conservancy
Marsh Woods Conservancy
Taylor Road Conservancy
Thrun Marsh Conservancy
Woodland Commons Conservancy
Yahara River Conservancy