

Monday, July 1, 2024

6:30 PM

McFarland Municipal Center
5915 Milwaukee St, McFarland
Community Room

AGENDA

The public may attend in-person or remotely through the Zoom webinar or telephone options listed below.

PLEASE CLICK THE LINK BELOW TO JOIN THE ZOOM WEBINAR:

<https://us02web.zoom.us/j/81181760200>

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

Webinar ID: 811 8176 0200

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 for items that are not on the agenda. Please remember this is a hybrid meeting conducted in person and through the Zoom online meeting platform. Meeting attendees wishing to address the Committee about items not on the agenda may do so at this time. Zoom attendees should type their name and address in the Question and Answer feature within the Zoom online meeting platform at this time. 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. When you are called upon to speak, state your name, address, and provide your comments to the Committee for their consideration. 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.

Members of the public may also speak during their selected agenda item as they designate on the public comment form or in the Question and Answer feature on Zoom.

3. APPROVAL OF MINUTES.

- a. Motion to approve the minutes of the June 3, 2024 meeting.

4. BUSINESS.

- a. Discussion and recommendation on Ordinance amendment 2024-13: an ordinance updating Chapter 11 of the Village Code of Ordinances regarding Alcohol Beverages and Cigarette, Tobacco Products, Nicotine and Electronic Vaping Devices.
- b. Discussion and recommendation on Ordinance amendment 2024-15: an ordinance updating Chapter 11 of the Village Code of Ordinances regarding regulation of direct seller's and solicitors.

5. SCHEDULE NEXT MEETING DATE.

- a. 8/5/2024 at 6:30 p.m.

6. ADJOURNMENT.

Any person who has a qualifying disability as defined by the Americans with Disabilities Act that requires the meeting or materials at the meeting to be in an accessible location or format should contact the McFarland Municipal Center at (608)838-3153, 5915 Milwaukee Street, McFarland, Wisconsin, or village.clerk@mcfarland.wi.us 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 3, 2024 - 6:30 PM

1. CALL TO ORDER, ROLL CALL.

Trustee Hilary Brandt called the regular meeting of the Public Safety Committee to order at 6:30 PM in the community room.

Members present: Hilary Brandt, Miguel Peña, Meredith Hughey, Rich Staley, Dottie Olson, Shannon Morrison

Members not present: Rick Behnke

Staff Present: Police Chief Chapin, Village Clerk Cassandra Suettinger

2. PUBLIC APPEARANCES.

This is an opportunity for members of the public to address the Public Safety Committee for items that are not on the agenda. Please remember this is a hybrid meeting conducted in person and through the Zoom online meeting platform. Meeting attendees wishing to address the Committee about items not on the agenda may do so at this time. Zoom attendees should type their name and address in the Question and Answer feature within the Zoom online meeting platform at this time. 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. When you are called upon to speak, state your name, address, and provide your comments to the Committee for their consideration. 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.

Members of the public may also speak during their selected agenda item as they designate on the public comment form or in the Question and Answer feature on Zoom.

There were no public appearances.

3. APPROVAL OF MINUTES.

Motion to approve the minutes of the 5-6-2024 meeting.

Motion by Village Trustee Hilary Brandt, second by Village Trustee Miguel Peña, to approve the minutes from the 5-6-2024 meeting. Motion carries 6 - 0 - 0 by acclamation.

4. BUSINESS.

Discussion and recommendation on an event permit application from the McFarland Equity Project to hold a Juneteenth Celebration on June 16, 2024.

Village Trustee Brandt introduced the item. Chief Chapin gave an overview. Chief Chapin answered the committee's questions. Member Meredith Huey answered Christine Pribbenow's question about the inflatable bounce house. Christine Pribbenow commented on the map that was constructed for the event and will address questions with the Director of Public Works.

Motion by Village Trustee Hilary Brandt, second by Village Trustee Miguel Peña, to

recommend an approval for an event permit application from the McFarland Equity Project to hold a Juneteenth Celebration on June 16, 2024, with the conditions provided by the Director of Public Works. Motion carries 6 - 0 - 0 by acclamation.

- b. Discussion and recommendation on an application from Grace Coffee McFarland LLC, D/B/A, Grace Coffee McFarland, for a Class "B" Beer and "Class C" wine only license for the property located at 4719 Farwell Street #106, McFarland WI 53558 for the period beginning July 1, 2024 and ending June 30, 2025.

Village Trustee Brandt introduced the item. Chief Chapin gave an overview of the item and highlighted the recommendations from staff. Chief Chapin answered the committee's questions.

Motion by Village Trustee Hilary Brandt, second by Member Shannon Morrison, to recommend approval on an application from Grace Coffee McFarland LLC, D/B/A, Grace Coffee McFarland, for a Class "B" Beer and "Class C" wine only license for the property located at 4719 Farwell Street #106, McFarland WI 53558 for the period beginning July 1, 2024 and ending June 30, 2025, with the following conditions:

1. The fire inspection violation be corrected before issuance of the license;
2. The maximum occupant load of the area will be required to be posted per International Building Code 2015 edition 1004.3 (IBC). Staff will assist in determining permissible load and posting location with the applicant;
3. Any latches for the egress gates shall swing with the path of travel and be operable in accordance with ADA and IBC requirements;

Motion carries 6 - 0 - 0 by acclamation.

- c. Discussion and recommendation on an application from the Mekong LLC, D/B/A, the Mekong for a Class "B" Beer and "Class B" reserve liquor license for the property located at 5100 Erling Avenue for the period beginning July 1, 2024 and ending June 30, 2025.

Village Trustee Brandt introduced the item. Chief Chapin gave an overview of the item and emphasized the owner following the business plan they provided to avoid the problems prior businesses at that location had. Nengher Vang spoke to the committee about the Mekong and the business plan they have for it. He answered the committee's questions. Chief Chapin answered additional questions.

Motion by Village Trustee Hilary Brandt, second by Village Trustee Miguel Peña, to recommend approval on an application from the Mekong LLC, D/B/A, the Mekong for a Class "B" Beer and "Class B" reserve liquor license for the property located at 5100 Erling Avenue for the period beginning July 1, 2024 and ending June 30, 2025, with the following conditions:

1. During times where there are events in the banquet hall where persons under the age of 21 are present, they utilize additional measures to prevent against underage consumption of alcohol including but not limited to carding everyone at the point of sale or requiring wristbands or other markings to identify people over 21;
2. Installation of video surveillance system to monitor any areas where a licensed

operator will not be present to provide supervision;

3. Private security is required to be hired for any events in the venue which 150 or more attendees are anticipated;
4. Issuance of occupancy permits from both Building Inspection and Fire Inspection;
5. Adherence to the attached business plan dated May 23, 2024.

Motion carries 6 - 0 - 0 by acclamation.

5. SCHEDULE NEXT MEETING DATE.

a. 7/1/2024 at 6:30 p.m.

6. ADJOURNMENT.

Motion by Village Trustee Miguel Peña, second by Member Shannon Morrison, to adjourn at 7:20 p.m.

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

Respectfully submitted,
Tricia Reimer
Office Manager


VILLAGE OF
McFarland
SUMMARY SHEET

MEETING DATE: Monday, July 1, 2024

SECTION: Business

DEPARTMENT: Administration

CONTACT: Cassandra Suettinger, Deputy Administrator/Clerk, Aaron Chapin, Police Chief, Chris Dennis, Fire/Rescue Chief, Andrew Bremer, Comm & Eco Dev Director

AGENDA ITEM: Discussion and recommendation on Ordinance amendment 2024-13: an ordinance updating Chapter 11 of the Village Code of Ordinances regarding Alcohol Beverages and Cigarette, Tobacco Products, Nicotine and Electronic Vaping Devices.

PREVIOUS ACTION:

2023 Act 73 was passed by the Wisconsin Legislature in late 2023.

ISSUE SUMMARY:

Staff recommends revision and revision of Chapter 11 of the Village Code of Ordinances regarding Alcohol Beverages as well as Cigarettes, Tobacco, Nicotine and Electronic Vaping Devices for the following:

2023 Wisconsin Act 73 was passed by the Wisconsin Legislature in late 2023. The act provides significant changes to the regulation of alcohol beverages, as well as cigarettes, tobacco, nicotine and electronic vaping devices. A full copy of the memos from the Wisconsin Legislative Council can be found here: Cigarettes, Tobacco, Products, and Electronic Vaping Devices and Alcohol Beverages.

Also with a revision for this purpose, staff has included other updates for consideration.

Proposed updates are as follows:

1. Revision to 11-52 Retail "Class C" Licenses to expand eligibility - Under the Act, "Class C" wine-only retail licenses are no longer required to be issued to a restaurant the sale of alcohol beverages accounts for less than 50% of gross receipts. The Act also allows a "Class C" wine-only retail license to be issued to a foreign corporation or LLC.

2. Insertion of a Lapse of License Clause - The proposed revision would not allow establishments that have gone out of business to renew their liquor license. State Law provides quotas on Class B Liquor licenses and a municipality is limited on how many licenses it can issue. The lapse of license clause is common in municipalities to ensure out of business establishments are holding on to licenses and preventing potential businesses from obtaining a license. The Village currently has 5 available Class B liquor licenses for issuance; however, the comprehensive update is a good time to consider insertion of the clause.



3. Updates to the Outdoor Consumption Ordinance

- Currently, 11-64 of the Village Code of Ordinances contains regulations regarding the outdoor consumption of alcohol. 11-69 contains provisions and regulation of outdoor sporting activities in conjunction with "Class B" intoxicating liquor Class "B" fermented malt beverages. There are places the provision conflict with each other and create confusion in administration. Staff has proposed revisions to eliminate 11-69 and fold in the regulation of outdoor sporting activities into the 11-64 of the Village Code of Ordinances regarding outdoor consumption.
- Insertion of language allowing for seasonal outdoor consumption areas. The current ordinances requires installation of a permanent fence. Because of the nature of Wisconsin seasons, the Village has seen an increase in the number of requests to have temporary outdoor consumption areas for summer months.

4. Insertion of language regarding Regulation of Full-Service Retail Outlets -The Act allows producers to establish full-service retail outlets dependent on the producer's maximum production in any of the three previous calendar years. Producers that meet specified production thresholds may establish between one and three full-service retail outlets and make full-service retail sales from those premises. A producer must obtain the approval of both the municipality in which the full-service retail outlet is located and DAB. Municipal approval must be based on the same standards and criteria that the municipality established by ordinance for the evaluation and approval of retail license applications. Municipalities may not impose requirements or restrictions on producers that it does not impose on retail licenses. Municipalities may limit the scope of alcohol beverages that the producer may offer for sale at the outlet, but only with respect to alcohol beverages that are not the same type as those produced by the producer. The Act also allows producers to operate a restaurant on its premises and at any full-service retail outlet operated by the producer. Proposed revisions to the ordinance align accordingly.

5. Updates regarding inclusion of Electronic Vaping and the application process - Act 23 subjects electronic vaping devices to the same retail licensing requirements as cigarettes and tobacco products. Additionally, the act provides a new application for licenses prescribed by the Wisconsin Department of Revenue that municipalities are required to use. Updates to the Village Ordinance regarding definitions and process are included. Additionally, staff recommends inclusion of a clause to require all delinquent taxes, bills and fees to be paid before a license can be issued.

FINANCIAL/BUDGET IMPACT:

Not Applicable.

VILLAGE PLAN REFERENCE:

N/A



ORDINANCE REFERENCE:

[Chapter 11 - Article 11 - II Alcohol Beverages](#)

[Chapter 11 - Article 11 - III Cigarettes, Tobacco Products and Nicotine Products](#)

BOARD, COMMISSION OR COMMITTEE RECOMMENDATION:

Recommended for discussion and possible action.

Motion to recommend approval of Ordinance amendment 2024-13: an ordinance updating Chapter 11 of the Village Code of Ordinances regarding Alcohol Beverages and Cigarette, Tobacco Products, Nicotine and Electronic Vaping Devices.

ATTACHMENTS:

1. 2024-14 - Alcohol Beverage - CTV Updates

**VILLAGE OF MCFARLAND
ORDINANCE**

**2024-13: AN ORDINANCE UPDATING CHAPTER 11 OF THE VILLAGE CODE OF
ORDINANCES REGARDING ALCOHOL BEVERAGES AND CIGARETTE,
TOBACCO PRODUCTS, NICOTINE AND ELECTRONIC VAPING DEVICES.**

WHEREAS, 2023 Wisconsin Act 73 made significant revisions to State Law regarding Alcohol Beverage, Cigarette, Tobacco, Nicotine and Electronic Vaping Devices;

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 other procedural changes to the regulation of Alcohol Beverage, Cigarette, Tobacco, Nicotine and Electronic Vaping Devices.

NOW THEREFORE, be it ordained by the Village Board of the Village of McFarland, in the State of Wisconsin, as follows:

SECTION 1: AMENDMENT “ARTICLE 11-III CIGARETTES, TOBACCO PRODUCTS AND NICOTINE PRODUCTS” of the Village of McFarland Municipal Code is hereby *amended* as follows:

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ARTICLE 11-III CIGARETTES, TOBACCO PRODUCTS ~~AND~~, NICOTINE PRODUCTS, AND ELECTRONIC VAPING DEVICES

SECTION 2: AMENDMENT “11-48 Class "B" License” of the Village of McFarland Municipal Code is hereby *amended* as follows:

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11-48 Class "B" License

- (a) *Issued*. Such license may be issued after July 1. The license shall expire on the following June 30.
- (b) *Application*. Class "B" licenses may be issued to any person qualified under Wis. Stats. § 125.04(5). Such licenses may not be issued to any person acting as agent for or in the employ of another except that this restriction does not apply to a hotel or restaurant which is not a part of or located on the premises of any mercantile

establishment, or to a bona fide club, society or lodge that has been in existence for at least six 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 Article. Except as provided in Wis. Stats. § 125.295, Class "B" licenses may not be issued to brewers or brewpubs. A Class "B" license may not be issued to a person holding a wholesaler's permit issued under Wis. Stats. § 125.28 or to a person who has a direct or indirect ownership interest in a premises operating under a wholesaler's permit issued under Wis. Stats. § 125.28.

- (c) *Hotels.* Notwithstanding Wis. Stats. § 125.04(3)(a)3. and (9), 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 furnished in original packages or containers and stored in a cabinet, refrigerator or other secure storage place. The cabinet, refrigerator or other secure storage place must be capable of being locked. The cabinet, refrigerator or other secure storage place shall be locked, or the fermented malt beverages shall be removed from the room, when the room is not occupied and when fermented malt beverages are not being furnished under this Subsection. A key for the lock shall be supplied to a guest who has attained the legal drinking age upon request at registration. The hotel shall prominently display a price list of the fermented malt beverages in the hotel room. Fermented malt beverages may be furnished at the time the guest occupies the room, but for purposes of this Chapter, the sale of fermented malt beverages furnished under this Subsection is considered to occur at the time and place that the guest pays for the fermented malt beverages. Notwithstanding Wis. Stats. § 125.32(3), the guest may pay for the fermented malt beverages at any time if the guest pays in conjunction with checking out of the hotel. An individual who stocks or accepts payment for alcohol beverages under this Subsection shall be the licensee, the agent named in the license if the licensee is a corporation or limited liability company or the holder of a manager's or operator's license or operator's permit, or be supervised by one of those individuals.

(Code 1998, § 7-2-4(d); Ord. No. 2003-02, § 77, 1-27-2002)

State law reference(s)—Similar provisions Wis. Stats. § 125.26(2), (2m).

SECTION 3: **AMENDMENT** “11-52 Retail "Class C" Licenses” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AM EN DM EN T

11-52 Retail "Class C" Licenses

- (a) ~~In this Subsection, the term "barroom" means a room that is primarily used for the sale or consumption of alcohol beverages.~~
- (b) (a) Except as provided under Wis. Stat. § 125.69

A "Class C" license may be issued to a person qualified under Wis. Stats. § 125.04(5), ~~for a restaurant in which the sale of alcohol beverages accounts for less than 50 percent of gross receipts and which does not have a barroom or for a restaurant in which the sale of alcohol beverages accounts for less than 50 percent of gross receipts and which has a barroom in which wine is the only intoxicating liquor sold if the municipality's quota prohibits the municipality from issuing a "Class B" license to that person. A "Class C" license may not be issued to a foreign corporation, foreign limited liability company or~~ except a person acting as agent for or in the employ of another.

- (e) (b) A "Class C" license shall particularly describe the premises for which it is issued.
- (d) ~~(c)~~ A "Class C" license may only be issued in the Village after the quota in Section 7-26(e) is full. In addition to any other factors the Village may consider when determining whether to grant a "Class C" license, the Village may consider, among other items, the location of the proposed licensed premises, the type of business conducted or to be conducted at the licensed premises, the frequency of underage persons at the premises, and the interior build of the premises, including the visibility of areas open to the public for consumption of alcohol beverages. ~~(e)~~

(Code 1998, § 7-2-4(h))

State law reference(s)—Retail "Class C" license, Wis. Stats. § 125.51(3m).

SECTION 4: AMENDMENT “11-57 Qualifications Of Applicants And Premises” of the Village of McFarland Municipal Code is hereby *amended* as follows:

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11-57 Qualifications Of Applicants And Premises

- (a) *Residence requirements.* A retail Class "A" or Class "B" fermented malt beverage or "Class A" or "Class B" intoxicating liquor license or "Class C" wine license shall be granted only to persons who are citizens of the United States and who have been residents of the state continuously for at least 90 days prior to the date of the application.
- (b) *Applicant to have malt beverage license.* No retail "Class B" intoxicating liquor license shall be issued to any person who does not have or to whom is not issued a Class "B" retailer's license to sell fermented malt beverages.

- (c) *Right to premises.* No applicant will be considered unless the applicant has the right to possession of the premises described in the application for the license period, by lease or by deed.
- (d) *Age of applicant.* No Class "A," "Class A," Class "B" or "Class B" or "Class C" licenses shall be granted to any underage person as defined by the Wisconsin Statutes.
- (e) *Corporate restrictions.*
- (1) No license or permit may be issued to any corporation or, limited liability company or limited liability partnership unless the entity meets the qualifications under Wis. Stats. § 125.04(a)(5)(c) and 1 and 4 and (b), ~~unless the agent of the entity appointed under Wis. Stats. § 125.04(6) and the officers and directors, or members or managers, of the entity meet the qualifications of Wis. Stats. § 125.04(6)(a)1 and 3 and (b) and unless the agent of the entity appointed under Wis. Stats. § 125.04(6) meets the qualifications under Wis. Stats. § 125.04(a)2 and 5(c). The requirement that the entity meet the qualifications under Wis. Stats. § 125.04(a)1 and (b) does not apply if the entity has terminated its relationship with all of the individuals whose actions directly contributed to the conviction.~~
 - (2) Each corporate applicant shall file with its application for such license a statement by its officers showing the name and addresses of the persons who are stockholders together with the amount of stock held by such person. It shall be the duty of each corporate applicant and licensee to file with the Village Clerk a statement of transfers of stock within 48 hours after such transfer of stock.
 - (3) Any license issued to a corporation or, limited liability company or limited liability partnership may be revoked in the manner and under the procedure established in Wis. Stats. § 125.12, when more than 50 percent of the stock interest, legal or beneficial, in such corporation or, limited liability company or limited liability partnership is held by any person not eligible for a license under this Article or under the state law.
- (f) *Separate license required for each place of sale.* A separate license shall be required for each stand or place that is in direct connection or communication where intoxicating liquor or fermented malt beverages are kept, sold or offered for sale; and no license shall be issued to any person, firm, partnership, corporation or association for the purpose of possession, selling or offering for sale any intoxicating liquors or fermented malt beverages in any dwelling house, flat or residential apartment.
- (g) *License quotas.*
- (1) No more than the number of retail "Class B" licenses permitted under Wis. Stats. § 125.51(4), shall be granted by the Village.
 - (2) The Village may utilize the annual population estimate received from the Wisconsin Department of Administration Demographic Service Center or the Bureau of Census of the United States Government in determining quotas.

- (h) *Licensed premises.* Licenses issued by the Village shall be for the structure itself and shall not confer any license or right to utilize property outside of the licensed structure, unless specifically provided for in the license or otherwise authorized by the Village Board. All sales of intoxicating liquors and fermented malt beverages within the Village shall be limited to and shall be made upon the premises described within the license granted by the Village Board. Specifically prohibited by this Section is the sale and delivery of alcohol beverages by food delivery services.
- (i) *Issuance for sales in dwellings prohibited.* No license shall be issued to any person for the purpose of possessing, selling, or offering for sale any alcohol beverages in any dwelling house, flat, or residential apartment.
- (j) *Delinquent taxes, assessments, etc.*
- (1) *Premises.* No initial or renewal alcohol beverage license shall be granted for any premises for which Village taxes, assessments, forfeitures, utility bills, garbage collection fees, sewer and water bills or other assessments or other claims to the Village are delinquent and unpaid.
- (2) *Persons.* No initial or renewal alcohol license shall be granted to any person:
- a. Delinquent in payment of any taxes, utility bills, garbage collection fees, sewer and water bills, assessments or other claims owned to the Village.
 - b. Delinquent in payment of a forfeiture resulting from a violation of any ordinance of the Village.
- (k) *Sales tax qualification.* All applicants for retail licenses shall provide proof, as required by Wis. Stats. § 77.61(11), that they are in good standing for sales tax purposes (i.e., hold a seller's permit) before they may be issued licenses.
- (l) *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.
- (m) *Limitations on other business; Class "B" premises.* Except as otherwise provided under Wis. Stat. § 125.32(3m),
~~No~~ Class "B" license or permit may be granted for any premises where any other business is conducted in connection with the premises, except that this restriction does not apply if the premises for which the Class "B" license or permit is issued is connected to premises where other business is conducted by a secondary doorway that serves as a safety exit and is not the primary entrance to the Class "B" premises. No other business may be conducted on premises operating under a Class "B" license or permit. ~~These restrictions do not apply to any of the following: A hotel. A restaurant, whether or not it is a part of or located in any mercantile establishment. A combination grocery store and tavern. A combination sporting~~

~~goods store and tavern in towns, villages and fourth-class cities. A combination novelty store and tavern. A bowling alley or recreation premises. A club, society or lodge that has been in existence for six months or more prior to the date of filing application for the Class "B" license or permit.~~

(Code 1998, § 7-2-7; Ord. No. 2003-02, § 84, 1-27-2002)

SECTION 5: AMENDMENT "11-64 Conditions Of License" of the Village of McFarland Municipal Code is hereby *amended* as follows:

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11-64 Conditions Of License

All retail "Class A," "Class B," Class "A," ~~and~~ Class "B" and "Class C" licenses granted or renewed hereunder shall be granted subject to the following conditions, and all other conditions of this Section, and subject to all other ordinances and regulations of the Village applicable thereto:

- (a) *Consent to entry.* Every applicant procuring a license thereby consents to the entry of police or other duly authorized representatives of the Village at all reasonable hours for the purpose of inspection and search, and consents to the removal from said 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 offenses.
- (b) *Employment of minors.* No retail "Class B" or Class "B" or "Class C" licensee shall employ any person under 18 years of age, but this shall not apply to hotels, restaurants, or combination grocery stores and taverns where 49 percent or less of the gross revenue is derived from the sale of intoxicating liquors, nor to bona fide clubs. Family members may work on the licensed premises but are not permitted to sell or dispense alcohol beverages.
- (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.
- (d) *Licensed operator on premises.* There shall be upon premises operated under a "Class A," Class "A," "Class B," Class "B" or "Class C" license, at all times that the premises are open for business, the licensee, the agent named in the license if the licensee is a corporation, the agent named in a "Class B" or Class "B" license, or some person who shall have an operator's license and who shall be responsible for the acts of all persons serving as waiters, or serving or selling in any other manner any fermented malt beverages or intoxicating beverages to customers. No person, including underage members of the licensee's immediate family, other than the licensee or agent may serve fermented malt beverages or alcohol beverages in any

place operated under a "Class A," Class "A," "Class B," Class "B" or "Class C" license unless the person has an operator's license or is at least 18 years of age and is under the immediate supervision of the licensee or agent or a person holding an operator's license, and who is on the premises at the time of the service.

- (e) *View of interior unobstructed.* No holder of a retail Class "B" or "Class B" license hereunder shall permit the interior of the premises to be obstructed by window tinting, blinds, screens or partitions, provided that partitions not exceeding 48 inches in height may be permitted within the interior, and provided further this Section shall not apply to a licensed premises where the principal business conducted is that of a restaurant or hotel.
- (f) *Alcohol beverages to be sold and consumed only in authorized parts of premises.* No alcohol beverage may be sold, dispensed, or consumed under a "Class B" or Class "B" or "Class C" license in any portion of the business or premises not authorized in said license.
- (g) *Restrictions near schools and houses of worship.* No retail "Class A," Class "A," "Class B" or Class "B" license shall be issued for premises, the main entrance of which is less than 300 feet from the main entrance of any established public school, parochial school, hospital or house of worship. Such distance shall be measured by the shortest route along the highway from the closest point of the maintenance entrance of such school, house of worship or hospital to the main entrance to such premises. This Subsection shall not apply to premises licensed as such on June 30, 1947, nor shall it apply to any premises licensed as such prior to the occupation of real property within 300 feet thereof by any school building, hospital building or house of worship building.
- (h) *Consumption on premises.* All purchase of intoxicating liquor or fermented malt beverages by the glass or in open containers shall be consumed on the licensed premises where served and shall not be removed therefrom to any thoroughfare, street, alley or sidewalk or anywhere outside the licensed premises unless authorized by the Village Board.
- (i) *Gambling prohibited.* No gambling or game of chance of any sort shall be permitted in any form upon any premises licensed under this Article or the laws of the state, except the Wisconsin State Lottery.
- (j) *Credit prohibited.* No retail "Class A," Class "A," "Class B," Class "B" or "Class C" liquor, wine or fermented malt beverage licensee shall sell or offer for sale any alcohol beverage to any person by extending credit, except hotel credit extended to a resident guest or a club to a bona fide member. It shall be unlawful for such licensee or permittee to sell alcohol beverages to any person on a passbook or store order or to receive from any person any goods, ware, merchandise or other articles in exchange for alcohol beverages.
- (k) *Licensee or permittee responsible for acts of employees.* A violation of this Article by a duly authorized agent or employee of a licensee or permittee under this Article shall constitute a violation by the licensee or permittee. Whenever any licensee or permittee under this Article shall violate any portion of this Article, proceedings for

the suspension or revocation of the license or permit of the holder thereof may be instituted in the manner prescribed in this Article.

- (l) *Operational telephone required.* All premises located within the Village that are licensed to sell alcohol beverages shall, during hours they are open, be equipped with a functioning land line telephone connected to the business premises, which shall be available to the operators and/or patrons of the establishment.
- (m) *Health and sanitation regulations.* The rules and regulations of the State Board of Health governing sanitation in restaurants shall apply to all "Class B" liquor or "Class C" licenses issued under this Article. No "Class B" or "Class C" license shall be issued unless the premises to be licensed conform to such rules and regulations.
- (n) *Outdoor consumption.* Licensed premises under a "Class B," Class "B" or "Class C" license may include areas outside a fully enclosed building in accordance with the following:
 - (1) Any application for a new license, the renewal of an existing license or a change in the description of licensed premises which seeks to include an outdoor area within the licensed premises' description shall require notice to each person owning property within 500 feet of the proposed licensed premises. The applicant shall prepay the cost of sending such notice before the notices are sent. The notice shall include a copy of the application and the date, time and location of any public hearings or other public meetings at which the application is scheduled to be considered.
 - (2) The application shall be accompanied by detailed plans or drawings demonstrating the size, location, surface and building materials, and use of the outdoor area, including fencing and signage, and any other information necessary to determine compliance with this Subsection. The outdoor consumption application, along with associated plans and drawings, shall be reviewed for a recommendation by the Public Safety Committee and a final decision made by the Village Board.
 - (3) The Village Board may impose conditions specific to any outdoor areas of the licensed premises as deemed necessary to prevent undue adverse impacts on neighboring property, the character of the surrounding neighborhood, traffic conditions, parking or any other matter to protect the public health, safety, welfare or convenience, including, but not limited to:
 - a. Restricting the hours and months during which alcohol consumption may be permitted within the outdoor area;
 - b. Requiring additional parking beyond the minimum required by the Zoning Code;
 - c. Regulation of lighting, ~~and~~ screening, fencing, and safety barriers;
 - d. Any conditions recommended by the Public Safety Committee;
 - e. Any conditions imposed by the Plan Commission as part of its required site plan review under Section 62-310 of this Code.
 - (4) In addition to any specific conditions imposed under Subsections (n)(2) and (n)(3), the following shall be minimum conditions of all licenses with

respect to outdoor areas unless the Village Board makes a specific finding that the condition is not necessary to protect the public health, safety or welfare:

- a. Outdoor areas are prohibited within 50 feet of the lot line of a parcel zoned for residential purposes. This prohibition shall not apply to prohibit an outdoor area where an accessory apartment exists on the same parcel as the licensed premises, or within the same General Development Plan for properties zoned under an approved Planned Unit Development.
- b. The hours during which alcohol consumption may be permitted within the outdoor area is restricted to 11:00 a.m. to 10:00 p.m. Sunday through Thursday; and 11:00 a.m. to 11:00 p.m. on Friday and Saturday.
- c. Except as provided below, the perimeter of any outdoor portion of a licensed premises shall be enclosed by a permanent, secure fence not less than four feet in height. Such fence shall be constructed of wood, plastic, or metal and erected and maintained in accordance with all applicable Village ordinances. No alcohol beverages may be consumed in any outdoor area of a licensed premises unless a permanent fence is installed at the premises consistent with this paragraph, or a temporary fence or netting around the outdoor area is installed, as provided below.
 1. If the outdoor portion of a licensed premises is an outdoor sports area regulated under Section 11-64n(5), in lieu of a permanent fence the outdoor sports area may instead be enclosed ~~enclosure~~ by temporary netting not less than ten feet high during the applicable sports season. Such netting shall not be installed sooner than 14 days prior to, and shall be removed no later than 14 days after, the season or the period established under Section 11-69~~(f)(6)~~n(5), whichever is shorter. The Village Board may grant exceptions to the 10foot high netting requirement where the applicant can demonstrate that fencing at a lower height my be justified based on the particular sporting activity.
 2. If the outdoor portion of a licensed premises is for seasonal use only, the outdoor portion of the licensed premises may, in lieu of a permanent fence, be enclosed by a temporary fence not less than four feet in height. Such fence shall be constructed from wood, plastic, or metal and erected and maintained in accordance with all applicable Village ordinances. Temporary fencing under this paragraph may not include chicken wire, plastic mesh, plastic safety fencing, or other similar materials. Said temporary fence

may not be installed earlier than April 1st each year and must be removed by November 1st each year.

- d. The outdoor area shall comply with all applicable building code requirements including the provision of readily distinguishable means of egress for fire and emergency purposes and requirements for obtaining a fence permit under Sec. 8-368 for permanent and seasonal outdoor consumption areas, including outdoor sport netting.
- e. The outdoor area shall not have an undue adverse impact upon nearby property, the character of the neighborhood, traffic conditions, parking or other matter affecting the public health, safety, welfare, or convenience.
- f. The size of the outdoor area may not be larger than 50 percent of the gross floor area of the licensed premises within a permanent building. Interior building capacity shall not be increased as a result of the addition of the outdoor area. The playing area of any outdoor sports area permitted under Section 11-69 shall not be included for purposes of determining compliance with this subparagraph so long as the playing area is not permitted to be occupied by persons not participating in the sporting activity for which the playing area is designed.
- g. A conspicuous notice shall be posted at each fire exit stating: "No Beer, Liquor or Wine May Be Carried in an Open Container Beyond this Point."
- h. No bar/counter service shall be permitted in outdoor areas, however, wait staff may serve in the outdoor area.
- i. Except for outdoor sports activities permitted under Section 11-69, the outdoor area shall not be used for any activities other than service and consumption of food and/or drink. Smoking may be permitted in accordance with applicable State and local regulations.
- j. The outdoor area shall be accessible to the disabled, and the license holder shall at all times comply with all applicable federal, state and village laws, ordinances and regulation concerning accessibility.
- k. Containers for refuse disposal and regular cleanup shall be placed inside of the outdoor area.
- l. If the outdoor area is used for outdoor sports activities as permitted under Section 11-69 and persons under the age of 21 are allowed to be present on the licensed premises, all persons 21 years of age or older who intend to consume alcohol beverages in the outdoor area, shall be issued a wristband that is bright in color which shall be

issued only upon showing valid identification proving the person is 21 years of age or older.

(5) Outdoor Sporting Activities

a. Definition: outdoor sporting shall include but not be limited to activities including physical activity, sport, or game, undertaken for the purpose of exercise, relaxation, diversion, education or pleasure. The Village shall have the sole authority to determine applicability regarding outdoor sporting activities.

b. Regulations

1. Outdoor Sporting activities shall be subject to the same standards contained within section (4) above with the following additional regulations:

- i. The outdoor sports area shall be all lights for competition turned off and no alcohol shall be possessed or consumed within the outdoor sports area after 9:30 p.m.
- ii. Outdoor lighting shall conform to an approved lighting plan prepared by a professional lighting engineer. The plan shall certify that the outdoor lighting shall not permit any light trespass onto any residential property greater than .01 foot candles.
- iii. Use of the outdoor sports area shall be limited to the period between April 1 and November 1.
- iv. The licensee shall provide adequate parking and restrooms at all times for normal activities and any special events. If needed, additional parking and temporary restrooms shall be provided on-site or through agreements.
- v. If persons under the age of 21 are allowed to be present on the licensed premises, all persons 21 years of age or older who intend to consume alcohol beverages in the outdoor sports area, shall be issued a wristband that is bright in color which shall be issued only upon showing a valid identification proving the person is 21 years of age or old.
- vi. The licensee shall clean up all garbage and debris relating to activity and conform to applicable property maintenance standards under Chapter 8 of this Code.

(Code 1998, § 7-2-14; Ord. No. 2013-01, §§ 1, 2, 4-22-2013; Ord. No. 2015-07, §§ 1—4, 727-2015; Ord. No. 2016-01, § 1, 1-25-2016; Ord. No. 2020-20, § 1, 6-22-2020)

SECTION 6: AMENDMENT “11-69 Outdoor Sports Activities Regulated” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AM EN DM EN T

11-69 Outdoor Sports Activities Regulated

- (a) ~~*Purpose.* The Village Board finds that restrictions are necessary for outdoor sports activities at premises holding "Class B" intoxicating liquor or Class "B" fermented malt beverage licenses due to concerns arising from noise, density and related problems. This Section enacted pursuant to police power, provides a framework for regulatory controls on such outdoor sports activities, enacted pursuant to police powers.~~*Approval required.* No licensee shall conduct or sponsor any outdoor sports activity or event on property forming any part of the real property on which the licensed premises exist without the prior approval of the Public Safety Committee which shall take into consideration the recommendation of the Plan Commission with respect to the plans and description of the proposed outdoor sports area.~~*Application.* If a licensee desires to conduct or sponsor an outdoor sports activity or event on the licensee's property, the licensee shall file an application with the Village Clerk setting forth the following information:~~*Time for filing.* The licensee shall file the application not less than 30 days before the date of the proposed activity or event. The Public Safety Committee may waive the 30-day time limit upon a licensee's showing of exigent circumstances. The application shall be accompanied by a payment of the fee established by the Village Board from time to time and provided in Appendix A to this Code for review of the application.~~*Review.* The Public Safety Committee shall review the applications in light of the standards of this Section. If the nature of the property or the event requires the imposition of additional regulations, the Public Safety Committee may impose these regulations upon an express finding detailing the reasons for additional regulation.~~*Standards.* The following standards shall apply to any outdoor sports activity regulated under this Section:~~*Maintenance standards.* The licensee shall clean up all garbage and debris relating to the activity or event at least once per 24 hours during the activity or event.~~The name, address and telephone number of the person who will be responsible for the actual conduct of the activity or event;The date and duration of time for the proposed activity or event;An accurate description of that portion of the licensee's property proposed to be used;A good faith estimate of the number of participants and spectators for the proposed activity or event; andThe licensee's plan for maintaining the cleanliness of the licensed area.Approval of an application shall not act to permit outdoor consumption of alcohol beverages on the property. Outdoor consumption shall be permitted only in outdoor areas included within licensed premises pursuant to Section 11-64(n).If the estimated number of participants and spectators shall bring the number of persons on the property above the number for which licensed premises' restroom facilities are rated adequate, the licensee shall provide a number of portable temporary restrooms

~~sufficient to service the estimated number of persons. The Public Safety Committee shall not grant approval to any applicant where the outdoor sports area is within 200 feet of any dwelling. The applicant shall provide parking adequate for the proposed activity or event, whether on-site or through agreements with property owners shown to the Public Safety Committee's satisfaction to permit their property to be used for parking for the proposed activity or event. The applicant shall show the Public Safety Committee plans adequate to provide reasonable access to participants and spectators for the event, and to limit access for all other persons. If the proposed outdoor sports area is on a property that, at the time of the original application is adjacent to any residential property or within 70 feet of any residential property the regulations set forth in subparagraphs a. through e. of this paragraph shall apply. For purposes of this section, a "residential property" is any property, located in a zoning district identified in Section 62-69 of the McFarland Municipal Code, excluding the A-1 or CO district, upon which a residential use exists as a legal or legal-nonconforming use, or upon which a residential use is to commence as evidenced by a building permit authorizing creation of a residential use having been filed with the Building Inspector. If persons under the age of 21 are allowed to be present on the licensed premises, all persons 21 years of age or older who intend to consume alcohol beverages in the outdoor sports area, shall be issued a wristband that is bright in color which shall be issued only upon showing valid identification proving the person is 21 years of age or older. The outdoor sports area shall have all lights for competition turned off and no alcohol shall be possessed or consumed within the outdoor sports area after 9:30 p.m. Outdoor lighting shall conform to an approved lighting plan prepared by a professional lighting engineer. The plan shall certify that the outdoor lighting shall not permit any light trespass onto any residential property greater than .01 footcandles. Whistles shall not be used except as required to call for stoppage of play. Use of the outdoor sports area shall be limited to the period between April 1 and November 1. *Violations.* Failure of the licensee to comply with any of the provisions of this Section shall be grounds for suspension, nonrenewal or revocation of the licensee's alcohol beverage license.~~

(Code 1998, § 7-2-19; Ord. No. 2003-02, § 100, 1-27-2002; Ord. No. 2004-26, § 5, 12-13-2004; Ord. No. 2013-01, § 3, 4-22-2013; Ord. No. 2015-07, §§ 6—11, 7-27-2015; Ord. No. 2016-01, §§ 2, 3, 1-25-2016)

SECTION 7: AMENDMENT “11-78 Regulation Of Pop-Up Brewery Events” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AM EN DM EN T

11-78 Regulation Of Pop-Up Brewery Events

- (a) For events open to the public held on private property in which alcohol beverages may be lawfully consumed at the location pursuant to a permitted off-site retail outlet established by a brewer pursuant to Wis. Stat. § 125.29(3)(e) or (f), the following regulations apply to the event and location:
- (1) *Closed area.* Alcohol beverages may be distributed and consumed only in an area that is closed or fenced-off from the general public. No person under age 21 may be in the closed or fenced-off area unless accompanied by his or her parent or guardian, or the person is accompanied by his or her spouse who is at least age 21.
 - (2) *Identification checks and wrist bands.* All persons entering an area authorized for consumption of alcohol beverages shall be subjected to an identification check verifying the person is at least age 21, and shall wear a wrist band confirming the same. This paragraph does not apply to persons under age 21 accompanied by his or her parent or guardian, or his or her spouse who is at least age 21.
 - (3) *Hours of operation.* Alcohol beverages may only be distributed and consumed between 6:00 a.m. and 9:00 p.m. each day.
 - (4) *Server requirements.* Persons serving alcohol beverages may not have a blood alcohol level above 0.04 g/100mL. At least one server at an event must have completed, within the previous two years, a responsible beverage server training course approved by the Wisconsin Department of Revenue.
 - (5) *Information to be provided to Village.* At least 21 days prior to the event, the property owner or lessee shall provide the Village Clerk with details concerning the event, including the specific location and time of the event, proof of completion of a responsible beverage server training course by a server who will serve alcohol beverages at the event, and any other pertinent information requested by the Village Clerk or the Chief of Police. In the interests of public safety, the Chief of Police, or his or her designee, may impose additional reasonable restrictions or requirements for the event.
 - (6) *Compliance with other Alcohol Beverage laws and permit requirements.* All other applicable terms under Wis. Stats. Ch. 125 (Alcohol Beverages) and any applicable permit or license issued under the same, shall be complied with by the property owner, lessee, server and brewer permit holder.
- (b) The property owner, lessee, persons serving alcohol beverages at the event, and brewer permit holder, are responsible for compliance with this Section and any additional restrictions or requirements made by the Village Clerk or Chief of Police pursuant to this Section.
- (c) A brewer that is eligible to establish a full-service retail outlet pursuant to Wis. Stat. § 125.09(7) may not sell alcohol beverages pursuant to this Section.

SECTION 8: ADOPTION “11-79 Regulation Of Full-Service Retail Outlets” of the Village of McFarland Municipal Code is hereby *added* as follows:

ADO P T I O N

11-79 Regulation Of Full-Service Retail Outlets(*Added*)

(a) Definitions.

(1) As used in this section, "full-service retail sales" means retail sales of fermented maltbeverages, wine or intoxicating liquor for on-premises or off-premises consumption, or the provision of taste samples of fermented malt beverages, wine or intoxicating liquor, or any combination of these activities.

(2) As used in this section, "full-service retail outlet" means an off-site location identified in a permit issued pursuant to Wis. Stat. §§ 125.29(7), 125.52(4) or 125.53(3) at which full service retail sales are conducted.

(3) As used in this section, "temporary full-service retail outlet" means a full-service retail outlet operating at and during a temporary event, including fairs, farmer's markets and community events, in which the full-service retail outlet will be operated for a total period of time of less than three consecutive days.

(b) Village Approval Required. No person may commence sales of alcohol beverages at any full-service retail outlet unless, prior to commencing such sales, the person receives written approval from the Village. Unless otherwise authorized by the Village, the only types of alcohol beverages that may be sold at any full-service retail outlet are the types of alcohol beverages produced under the permit issued under Wis. Stat. §§ 125.29, 125.52 or 125.53 for that retail outlet.

(c) Applications for Full-Service Retail Outlets.

(1) General Application Process. Applications for approval to operate a full-service retail outlet shall be submitted to the Village for approval on the form provided by the Wisconsin Department of Revenue. The applicant shall provide additional information with the application as may be required by the Clerk. The general procedure for approving retail licenses shall apply to requests for approval of a full-service retail outlet, with the exception of 11-58(b) as that function will be performed by the Wisconsin Department of Revenue. In considering the approval or denial of the application, the Village will apply the same standards and criteria for the evaluation of other retail licenses, including Sections 11-57, 11-58 and 11-59.

(2) Application Process for Temporary Full-Service Retail Outlets. Applications for approval to operate a temporary full-service retail outlet shall be submitted to the Village for approval on the form provided by the Wisconsin Department of Revenue and follow the requirements of (c)(1) above, except that, in the reasonable discretion of the Clerk, the applicant may be permitted to follow the application and approval process for a temporary Class "B" and temporary "Class B" license. In all cases, applications for approval of any temporary full-service retail outlets must be submitted to the Village for approval at least 45 days in advance of the applicable event.

(e) All approvals granted to operate any full-service retail outlet are subject to the conditions under 11-64 and, in addition, to any other reasonable requirements and restrictions that the Village imposes as a condition on the approval.

(f) Closing Hours. Full-service retail outlets are subject to the same closing hours applicable to a Class "B" license. Temporary full-service retail outlets shall close at the conclusion of the applicable event or at an earlier time set by the Village.

(g) A brewer that is eligible to establish a full-service retail outlet under Wis. Stat. § 125.29 (7) is not authorized to make retail sales of fermented malt beverages at an off-site retail outlet under Wis. Stat. § 125.29(3)(e) and (f), or at a pop-up brewery location under Section 11-78.

(h) Approvals for full service retail outlets shall expire every June 30th. Approvals for a temporary full service retail outlet expire at the conclusion of the applicable event or other time as set by the Village.

(i) Violations by any permittee or their employee or agent of any provision of Chapter 125 or any provision of this Article may be a basis to revoke or suspend the approval of any full service retail outlet.

(j) Applications for approval of any full-service retail outlet shall include a fee as determined by the Village Board.

(k) The permittee shall provide a copy of its permit and other approval issued by the Wisconsin Department of Revenue for the full-service retail outlet approved by the Village.

SECTION 9: ADOPTION “11-97 Definitions” of the Village of McFarland Municipal Code is hereby *added* as follows:

ADOPTION

11-97 Definitions(*Added*)

(a) As used in this Article, "tobacco products" means cigars; pipe tobacco; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco;

snuff, including moist snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking.

(b) As used in this Article, "cigarette" mean any roll of tobacco wrapped in paper or any substance other than tobacco.

(c) As used in this Article, "electronic vaping device" means a device that may be used to deliver any aerosolized or vaporized liquid or other substance for inhalation, regardless of whether the liquid or other substance contains nicotine, including an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. "Electronic vaping device" includes a component, part, or accessory of the device, and includes a liquid or other substance that may be aerosolized or vaporized by such device, regardless of whether the liquid or other substance contains nicotine. "Electronic vaping device" does not include a battery or battery charger when sold separately. "Electronic vaping device" does not include drugs, devices, or combination products authorized for sale by the U.S. food and drug administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

SECTION 10: AMENDMENT "11-98 License Required" of the Village of McFarland Municipal Code is hereby *amended* as follows:

AM EN DM EN T

11-98 License Required

No person shall, in any manner, or upon any pretense, or by any device, directly or indirectly ~~, upon any premises, or by any device,~~ sell, expose for sale, possess with intent to sell, exchange, barter, dispose of or give away, ~~or keep for sale,~~ any cigarette, electronic vaping device, cigarette paper or cigarette wrappers, or tobacco products ~~, nicotine product or any substitute therefor, without first obtaining a license as hereinafter provided~~ without first obtaining a license as herinafter provided.

(Code 1998, § 7-3-1(a))

State law reference(s)—Cigarette and tobacco products license, Wis. Stats. § 134.65.

SECTION 11: AMENDMENT "11-99 Application For License, Fee" of the Village of McFarland Municipal Code is hereby *amended* as follows:

AM EN DM EN T

11-99 Application For License, Fee

Every person, firm or corporation desiring a license under this Section shall file with the Village Clerk a written application as prepared pursuant to Wis. Stat. § 134.65 (1g)., ~~stating the name of the person and the place for which such license is desired.~~

(a) Each license shall be filed by the Village Clerk and shall name the licensee and the place such licensee is authorized to conduct such business, and the same shall not be delivered until the applicant shall pay to the Village Clerk the license fee established by the Village Board from time to time and provided in Appendix A to this Code.

(b) Late Fees. Licenses shall be applied for by April 15th annually or be subject to a late filing fee to be provided in Appendix A of this code. Any application for which there is a deficiency or lack of compliance that is corrected after April 15th shall be subject to a late filing fee to be provided in Appendix A of this code. Applications submitted May 1st and after, shall be subject to an additional late filing fee to be provided in Appendix A of this code. Any application for which there is a deficiency or lack of compliance that is corrected May 1st or after shall be subject to an additional late filing fee to be provided in Appendix A of this code. Payment of the late filing fee shall not relieve any person from the requirement to obtain a license on or before June 30th of year year. Payment of the late filing fee shall not relieve any person from any other penalties prescribed for failure to obtain the license.

(Code 1998, § 7-3-1(b); Ord. No. 98-20, § 2, 12-14-1998; Ord. No. 2003-02, § 106, 1-272002)

State law reference(s)—License application and fee, nontransferable, Wis. Stats. § 134.65(2) (b), (3).

SECTION 12: AMENDMENT “11-100 Issuance, Conditions And Term Of License” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AM EN DM EN T

11-100 Issuance, Conditions And Term Of License

- (a) Such licenses shall be issued by the Village Clerk pursuant to Wis. Stat. § 134.65.
- (b) The licensee shall comply with the restrictions and training requirements set forth in ~~Wis. Stats. §~~ Wis. Stat. §§ 134.65 and 134.66.
- (c) Each license shall be issued on July 1 in each year, or thereafter whenever applied for, and shall continue in force from date of issuance until the succeeding June 30

unless sooner revoked ~~for any violation of this Section~~ pursuant to Wis. Stat. § 134.65.

- (d) Delinquent taxes, assessments, etc. No license shall be granted to any person or business that is delinquent in payment of any taxes, utility bills, garbage collection fees, sewer and water bills, assessments or other claims owned to the Village, or delinquent in payment of a forfeiture resulting from a violation of any ordinance of the Village.

(Code 1998, § 7-3-1(c); Ord. No. 2003-02, § 107, 1-27-2002)

Editor's note(s)—Ord. No. 2017-08, § 5, adopted March 13, 2017, changed the title of § 11100 from "Issuance and term of license" to read as herein set out.

State law reference(s)—Issuance, records to be kept, penalty for violations, Wis. Stats. § 134.65(4), (5).

SECTION 13: AMENDMENT “CHAPTER 11 - BUSINESSES FEES” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AM EN DM EN T

CHAPTER 11 - BUSINESSES FEES

Section	Description	Fee
11-51	Provisional retail license	\$15.00
11-54	Alcohol beverages:	
	License fees:	
11-54(a)(1)	Class "A" fermented malt beverages license (per year)	\$200.00
11-54(a)(2)	Class "B" fermented malt beverage license (per year)	\$100.00
11-54(a)(3) or 11-49(b)	Temporary class "B" fermented malt beverage license (per event)	\$10.00

11-54(a)(4)	Temporary "class B" wine license (per event)	\$10.00
11-54(a)(5)	"Class A" intoxicating liquor license (per year)	\$500.00
11-54(a)(6)	"Class B" intoxicating liquor license (Per year)	\$500.00
11-54(a)(7)	"Class C" wine license (per year)	\$100.00
11-54(a)(8)	Reserve "Class B" intoxicating liquor license	
	Fee for initial issuance	\$10,000.00
	Renewal fee:	\$500.00
11-54(a)(9)	"Class B" license issued pursuant to Wis. Stats. § 125.51(4)(v):	
	Fee for initial issuance	\$10,000.00
	Renewal fee	\$500.00
11-54(a)(10)	Late Filing Fee - After April 15	\$50.00
	Additional Late Filing Fee - On or after May 1	\$150.00
11-61(a)	License transfer fee	\$10.00
11-61(b)	Change of agent fee	\$10.00
11-69(d)	Outdoor sports activities with "Class B" licenses event	\$50.00
	application review fee	

11-73(a)	Operator's license fee	
	If no additional background checks are required during license period	\$35.00
	If additional background checks are required during license period	\$50.00 one check \$65.00 two checks \$80.00 three checks
11-73(b)	Temporary operator's license fee	\$15.00
11-73(c)	Provisional operator's license fee	\$15.00
<u>11-79</u>	<u>Full-service retail outlet approval (per year), or per event for temporary full-service retail outlets.</u>	<u>\$100.00</u>
11-99 <u>11-99</u>	Cigarette license	\$100. 00
	<u>Late Fee - After April 15th</u>	<u>\$15.00</u>
	<u>Late Fee - After May 1st</u>	<u>\$30.00</u>
11-132(c)	Direct seller application filing fee (annual)	
	Annual license	\$100.00
	30-day license	\$40.00
	Seven-day license	\$20.00
11-155(a)(1)	License to operate amusement devices	\$15.00
11-155(a)(2)	Video game of chance license	
11-155(b)(1)	Minor arcade license (per year)	\$100.00
11-155(c)(1)	Major arcade license (per year)	\$300.00
11-157(b)	Minor arcade license transfer fee	
11-220	Nonmetallic mining permit fee	\$100.00

11-251	Blasting and rock crushing:	
	Permit fee, quarries	\$50.00
	Permit fee, gravel crushing operations	\$50.00
11-362(a)	Tourist rooming house permit fees (per rooming house):	
11-362(a)(1)	Initial permit application fee	\$500.00 (includes any initial Village inspections necessary), plus \$50.00 for each non-owner local agent.
11-362(a)(2)	Renewal permit application fee	\$100.00
11-362(a)(3)	Change or addition of local agent	\$50.00
11-362(b)	Tourist Rooming House Inspection Fees:	
11-362(b)(1)	Building Inspection	\$100.00
11-362(b)(2)	Fire Inspection	\$100.00
11-402	Mobile Food Establishment fees:	
	Annual Fee	\$150.00
	Single Event Permit	\$50.00

SECTION 14: AMENDMENT “11-74 Issuance Or Denial Of Operator's License” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AM EN DM EN T

11-74 Issuance Or Denial Of Operator's License

- (a) *Issuance of approved licenses.* If the Police Department recommends granting the operator's license, or the Village Board approves granting the operator's license, the Village Clerk shall issue the license. Such licenses shall state the applicant's name ~~and address and~~ the date of the expiration of such license. The Village Clerk shall make the license available for pick up at the Village Clerk's office. Any operator's

license for which the fee is not paid within 15 days of approval of the application by the Village Board shall be canceled by the Village Clerk.

(b) *Denial.*

- (1) If the application is denied by the Village Board, the Village Clerk shall, in writing, inform the applicant of the denial, the reasons therefor, and of the opportunity to request a reconsideration of the application by the Village Board. Such notice must be sent by registered mail to, or served upon, the applicant at least ten days prior to the Village Board's reconsideration of the matter. At such reconsideration hearing, the applicant may present evidence and testimony as to why the license should be granted.
- (2) If upon reconsideration, the Village Board again denies the application, the Village Clerk shall notify the applicant in writing of the reasons therefor. An applicant who is denied any license may apply to Circuit Court pursuant to Wis. Stats. § 125.12(2)(d), for review.

(c) *Basis for denial.*

- (1) Consideration for the granting or denial of a license will be based on:
 - a. Arrest and conviction record of the applicant, subject to the limitations imposed by Wis. Stats. §§ 111.321, 111.322, and 111.335, and Wis. Stats. § 125.12(1)(b);
 - b. Reserved;
 - c. Generally, the applicant's fitness for the trust to be reposed.
- (2) If a licensee is convicted of an offense substantially related to the licensed activity.
- (3) An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two offenses which are substantially related to the licensed activity within the five years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the Village Board, the Village Board reserves the right to consider the severity, and facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the Village Board, at its discretion, may, based upon an arrest or conviction record of two or more offenses that are substantially related to the licensed activity within the five years immediately preceding, act to suspend such license for a period of one year or more.

(Code 1998, § 7-2-34; Ord. No. 2003-02, §§ 103—105, 1-27-2002)

State law reference(s)—Revocation, suspensions, refusals to issue, Wis. Stats. § 125.12.

SECTION 15: AMENDMENT “11-61 Transfer And Lapse Of License” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AM EN DM EN T

11-61 Transfer And Lapse Of License

- (a) In accordance with the provisions of Wis. Stats. § 125.04(12), a license shall be transferable from one premises to another if such transfer is first approved by the Village Board. An application for transfer shall be made on a form furnished by the Village Clerk. Proceedings for such transfer shall be had in the same form and manner as the original application. The fee for such transfer shall be the fee established by the Village Board from time to time and provided in Appendix A to this Code. Whenever a license is transferred, the Village Clerk shall forthwith notify the Wisconsin Department of Revenue of such transfer. In the event of the sale of a business or business premises of the licensee, the purchaser of such business or business premises must apply to the Village for reissuance of said license and the Village, as the licensing authority, shall in no way be bound to reissue said license to said subsequent purchaser.
- (b) Whenever the agent of a corporate holder of a license is for any reason replaced, the licensee shall give the Village Clerk written notice of said replacement, the reasons therefore and the new appointment. An application for change of agent shall be made on a form furnished by the Village Clerk. A fee for such transfer shall be the fee established by the Village Board from time to time and provided in Appendix A of this Code. Until the next regular meeting or special meeting of the Village Board, the successor agent shall have the authority to perform the functions and be charged with the duties of the original agent. However, said license shall be invalid upon receipt by the Village Clerk of notice of disapproval of the successor agent by the Department of Revenue or other peace officer of the Municipality in which the license was issued. The Corporation's license shall not be in force after receipt of such notice or after a regular or special meeting of the Village Board until the successor agent and another qualified agent is appointed and approved by the Village and the Wisconsin Department of Revenue.
- (c) Lapse of License. Any licensee that fails to conduct any sale of alcohol beverages pursuant to said license for a period of one year or more may not renew the license. Within 15 days of notice being sent to a licensee that the license is not renewed pursuant to this paragraph, the licensee may request a hearing. If a hearing is requested, the procedures under paragraph 11-67 (b) shall apply to the nonrenewal of the license. This paragraph is not a prohibition on the licensee applying for a new license pursuant to this chapter.

(Code 1998, § 7-2-11; Ord. No. 2003-02, §§ 89, 90, 1-27-2002; Ord. No. 2009-25, § 1, 1214-2009)

State law reference(s)—Transfer of licenses or permits, Wis. Stats. § 125.04(12).

SECTION 16: **AMENDMENT** “11-67 Revocation And Suspension Of Licenses; Nonrenewal; Subsequent Changes” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AM EN DM EN T

11-67 Revocation And Suspension Of Licenses; Nonrenewal; Subsequent Changes

(a) *Procedure.* Whenever the holder of any license under this Article violates any portion of this Article or Chapter 38, Article IV, any applicable law regarding alcohol beverages, or any condition of a license, proceedings for the revocation, suspension or nonrenewal of such license may be instituted in the manner and under the procedure established by this Section.

(b) *Cancellation of premised licenses.*

(1) *Grounds for cancellation for nonuse of license.* Any "Class A," Class "A," "Class C," "Class B" or Class "B" fermented malt and/or intoxicating liquor licenses granted under this Article for which the subject premises:

- a. Is not open for business within 30 days of the granting of such license;
- b. Is not open for business for a period of 180 consecutive days or more; or
- c. Is not open for business at least 50 percent of the days within any 12 month period, either within a licensing year or overlapping two licensing years;

shall be cancelled unless, after notice and hearing as provided in Subsection (b)(2) of this Section, the Village Board shall determine that good cause exists for the failure of the licensee to be open for business for periods in excess of the minimums set forth in this Subsection. If such cause is found to exist, the Village Board may set such terms as it deems appropriate to the continuation of the license with respect to minimum days of operation or a time frame within which the subject premises must open for business to avoid cancellation of the subject license.

(2) *Notice and hearing.* Prior to cancellation of any license, the Village Clerk shall notify the licensee in writing of the Village's intention to cancel the license for nonuse and provide the licensee with an opportunity for a hearing. Such notice shall also specify the time, place and date of the hearing, which shall be not less than 15 days after the date of the notice. Such hearing shall be conducted as provided in accordance with Wis. Stats. § 125.12(2)(b).

(c) *License revocation or suspension.*

(1) *Notice and hearing.* Whenever a person holding a license to sell alcohol beverages has failed to maintain the premises according to standards prescribed for sanitation, or in whose premises persons are permitted to loiter for purposes of prostitution, or when the licensee has not observed and obeyed any lawful order of the Village Board or police officers of the Village, has violated Village ordinances, has violated the terms of the license, or for any other good reason, including the reasons set forth in Wis. Stats. § 125.12(2) (ag) or any amendment thereto, the Village Board shall issue a summons, to be signed by the Village Clerk commanding the licensee complained of to appear before the Village Board on a day and time and at a place named in the summons to show cause why the license should not be revoked or suspended. In addition, any resident may file a sworn, written complaint with the Village Clerk, as may the Public Safety Committee following prior investigation and determination of the matter. Such summons shall be served not less than three and not more than ten days before the time at which the licensee is commanded to appear and shall be served on the licensee in the manner provided under Wis. Stats. Ch. 801, for service in civil actions in circuit court. The complaint shall be served with the summons and shall set forth the offense allegedly committed, the date and place of said offense and the facts constituting the alleged offense. If such licensee shall not appear as required by the summons, the complaint shall be taken as true, and if the Village Board deems its allegations sufficient, the Village Board shall revoke or suspend the license as provided herein.

(2) *Procedure on hearing; effect of revocation.*

- a. The Village President or, in the Village President's absence, the Village President Pro Tem, shall conduct the hearing, administer oaths to all witnesses and may issue subpoenas. So far as practicable, the rules of evidence provided in Wis. Stats. § 68.11, shall be followed. The complainant shall have the burden of providing the charges to a preponderance of the evidence. The licensee and the complainant may be represented by counsel, may call and examine witnesses and cross-examine witnesses of the other party. All proceedings and testimony shall be recorded on tape. If either party requests a stenographic recording and transcription, the Village shall make the necessary arrangements, but the expenses shall be borne by the requesting party. The Village Clerk shall serve as secretary to the Village Board and shall make and receive all exhibits admitted into the record. The Village Board, upon the testimony and evidence presented at the hearing, shall determine by simple majority vote of those present whether the charges are true. If the Village Board finds the complaint to be true, the license shall either be suspended for not less than ten days nor more than 90 days

or revoked. The Village Clerk shall give notice of each suspension or revocation to the person whose license is suspended or revoked.

- b. If the complaint is found to be true, the licensee shall pay to the Village the actual cost of the proceedings. If the complaint is found by the Village Board to be malicious and without probable cause, the complainant shall pay the cost of the proceedings in the same amount.
- c. When a license is revoked, it shall be so entered of record by the Village Clerk, ~~and Clerk~~ and no other license shall be granted to such licensee or for such premises for a period of 12 months from the date of the revocation, nor shall any part of the money paid as application fee for any license so revoked be refunded.

(d) *Nonrenewal of license.*

- (1) *Notice.* The Village Board may refuse to renew a license for the causes provided in Wis. Stats. § 125.12 (2)(ag). Prior to the time for renewal of the license, the Chief of Police shall notify the licensee, in writing, of the Chief of Police's intention to recommend to the Public Safety Committee that the license not be renewed. The notice shall provide the licensee with an opportunity for a hearing. The notice shall state the reasons for the Chief of Police's recommendation not to renew the license.
- (2) *Request for hearing.* If the licensee requests a hearing, the hearing shall be conducted by the Public Safety Committee not less than three days nor more than ten days after the Village receives a written request, as provided in Subsection (c)(2) of this Section and Wis. Stats. § 125.12(2)(b).
- (3) *Hearing before Public Safety Committee.* If a hearing is held before the Public Safety Committee, the Public Safety Committee shall submit a report, including findings of fact, conclusions of law and a recommendation as to what action the Village Board should take with respect to the license. The Public Safety Committee shall provide a copy of the report to the licensee.
- (4) *Objections to committee report.* The licensee may file a written objection to the report with the Village Clerk within ten days of receipt of the report, and shall have the opportunity to present arguments supporting the objection to the Village Board. The Village Board may require the licensee to orally present arguments supporting the objection during a meeting of the Village Board, or may rely on the argument raised in the written objection filed with the Village Clerk.
- (5) *Action by Village Board.* The Village Board shall review the Public Safety Committee's report and any arguments presented by the licensee and determine whether to renew the license. If there is no objection to a report recommending nonrenewal of a license, the license shall not be renewed.

(e) *Subsequent changes.*

- (1) After issuance of a license, whenever anything occurs to change any fact set forth in the license application or renewal form, the licensee shall file with the Village Clerk written notice within ten days after the occurrence thereof.
 - (2) After issuance of a license, should the licensee under a retail "Class B" intoxicating liquor license wish to change the licensed premises from a restaurant into a tavern, or from a tavern into a restaurant, the licensee shall file with the Village Clerk a written notice setting forth said desire not less than 60 days prior to the contemplated change. The Village Clerk shall refer the notice to the Village Board, which shall schedule a public hearing as soon thereafter as possible, which shall be attended by the licensee. At the hearing, the licensee shall be given the opportunity to be heard as to why the Village Board should approve the change. The Village Board shall provide for an orderly opportunity for all other persons to be heard on the subject. Following the hearing, the Village Board shall approve or disapprove of the proposed change and will issue a written decision upon the request of any interested person.
 - (3) Failure by the licensee to notify the Village under either of the above applicable procedures shall be grounds for suspension, nonrenewal, or revocation of the licensee's license.
- (f) *Other provisions.* Any license issued pursuant to this Article shall be subject to such further regulations and restrictions as may be imposed by the Village Board by amendment to this Section or by the enactment of new ordinances. If any licensee shall fail or neglect to meet the requirements imposed by such new restrictions and regulations such licensee's license may be revoked in accordance with this Section. In case of revocation of any license or any violation of any provision of this Article in accordance with this Section or by the court or for any reasonable cause except the imposition of new restrictions, no refund shall be made of any part of the license fee.

(Code 1998, § 7-2-17; Ord. No. 2003-02, §§ 92—99, 1-27-2002)

State law reference(s)—Subsequent changes, Wis. Stats. § 125.04(3)(h); revocation, suspension, refusal to issue or renew, Wis. Stats. § 125.12.

PASSED AND ADOPTED BY THE VILLAGE OF MCFARLAND VILLAGE BOARD

_____.

Presiding Officer

Attest

Carolyn Clow, Village President,
Village of McFarland

Cassandra Suettinger, Deputy
Administrator/Clerk, Village of
McFarland


VILLAGE OF
McFarland
SUMMARY SHEET

MEETING DATE: Monday, July 1, 2024

SECTION: Business

DEPARTMENT: Administration

CONTACT: Cassandra Suettinger, Deputy Administrator/Clerk, Aaron Chapin,
Police Chief

AGENDA ITEM: Discussion and recommendation on Ordinance amendment 2024-15:
an ordinance updating Chapter 11 of the Village Code of Ordinances
regarding regulation of direct seller's and solicitors.

PREVIOUS ACTION:

ISSUE SUMMARY:

Direct Seller's are individuals who are selling goods or services at a location other than their permanent business. Often these are door to door sales. Because of the nature of door-to-door sales, and the vulnerability of residents, the Village has an ordinance outlining regulations. In the last couple of years, the Village has experience various problems in relation to direct seller's and violations of the Village ordinance. A challenge with direct seller's is, often they descend a heavy presence into the Village to conduct door to door sales, and then they usually depart rather quickly. The ordinance is currently written to be able to take action against individual direct seller's. Because of the flighty nature of direct sales, it is often challenging to take action against individuals who violate the ordinance or operate without a permit. Staff recommends revision to the ordinance to allow the Village to take action against both the individual seller's and the ability to suspend or revoke permits for an entire company. Attached is an ordinance amendment with proposed revisions.

FINANCIAL/BUDGET IMPACT:

N/A

VILLAGE PLAN REFERENCE:

N/A

ORDINANCE REFERENCE:

Chapter 11 - Direct Seller's

BOARD, COMMISSION OR COMMITTEE RECOMMENDATION:

Staff recommends discussion and possible action on Ordinance 2024-15.

Motion to recommend approval of Ordinance amendment 2024-15: an ordinance updating Chapter 11 of the Village Code of Ordinances regarding regulation of direct seller's and solicitors.



ATTACHMENTS:

1. 2024-14 - Direct Seller's

**VILLAGE OF MCFARLAND
ORDINANCE**

**2024-14: AN ORDINANCE UPDATING CHAPTER 11 OF THE VILLAGE CODE OF
ORDINANCES REGARDING THE REGULATION OF DIRECT SELLER’S AND
SOLICITORS**

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 other procedural changes to the regulation of direct seller’s and solicitors.

NOW THEREFORE, be it ordained by the Village Board of the Village of McFarland, in the State of Wisconsin, as follows:

SECTION 17: AMENDMENT “11-136 Revocation Of Licenses” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AM EN DM EN T

11-136 Revocation Of Licenses

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

- (1) The sellerlicensee made any material omission or any false, materially misleading or otherwise untrue statement in the application for a license.
- (2) The sellerlicensee has made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales.
- (3) The sellerlicensee has violated any provision in this chapter.
- (4) The sellerlicensee 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.
- (5) Another person working on behalf of the same entity as the licensee has violated any of paragraphs (1) through (4) above, or section 11-129.

(b) *Revocation hearing*.

- (1) *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.

(2) *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.

(c) *Temporary suspension.* The Village Clerk or ~~A~~ 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 authority to suspend a license under this paragraph extends to all licenses issued to all other persons working on behalf of the same entity as the person whose license is temporarily suspended above or who otherwise violated section 11-129. Law enforcement shall report any temporary suspension of a license to the Village Clerk. The suspension shall be immediately reported to. In the event of temporary suspension of a license, the ~~the~~ Village Clerk ~~who~~ shall schedule a hearing as soon as practicable, unless review of the suspension is waived by the licensee ~~or permittee~~.

SECTION 18: **AMENDMENT** “11-129 Requirements” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AM EN DM EN T

11-129 Requirements

No person may act as a direct seller without a license issued pursuant to section 11-132, unless an exemption applies. No person may conduct direct sales or act as a solicitor in violation of this Article. ~~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.~~ The restrictions of this section apply both to the person directly acting as a direct seller or solicitor and that person's employer, contractor or other principal.

(Code 1998, § 7-4-1)

SECTION 19: **AMENDMENT** “11-131 Exemptions” of the Village of

McFarland Municipal Code is hereby *amended* as follows:

AM EN DM EN T

11-131 Exemptions

The following shall be exempt from all provisions of this Article other than Section 11-134(a)(2)—(45) and (6) and Section 11-133:

- (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) 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 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) (i) Any person selling goods when authorized pursuant to an event permit issued by the Village, pursuant to Chapter 36;
- (k) (j) 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)

SECTION 20: AMENDMENT “11-132 Direct Seller License” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AM EN DM EN T

11-132 Direct Seller License

- (a) *Required information.* Applicants for a license as a direct seller must complete and return to the Village Clerk a license application furnished by the Village Clerk 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 d~~ 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 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 to cover the cost of processing the application and investigation of the applicant.

(d) *Investigation.* Upon receipt of the application, the Village Clerk 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 (e) *Issuance of license.*

(1) *Standards for issuance.* The Village Clerk 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 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 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 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 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*

(1) Except as provided in Subsection (2), if an application is not approved by the Village Clerk pursuant to Subsection (e)(1)(c), the Village Clerk 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 may appeal that decision to the Public Safety Committee by providing written notice to the Village Clerk within 14 days of the Village Clerk mailing notice of denial of the license.
- (1) 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.
- (2) Upon any appeal of a license denial based in whole or part on Section 11132(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.
- (1) The Village Board shall issue written findings and a decision regarding the issuance of the license within 30 days after the hearing.

(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)

SECTION 21: AMENDMENT "11-133 Solicitors Registration Procedure" of the Village of McFarland Municipal Code is hereby *amended* as follows:

AM EN DM EN T

11-133 Solicitors Registration Procedure

- (a) Applicants for registration as a solicitor shall complete and return to the Village Clerk a signed registration form furnished by the Village Clerk 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~~202.01 et seq.;
- (b) At the time for filing the application, the applicant shall present the following to the Village Clerk 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~~202.01 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)~~202.14;
 - (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 shall examine the application and supporting documents. If the application and supporting documents are complete, the Village Clerk 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)

SECTION 22: **AMENDMENT** “11-130 Definitions” of the Village of McFarland Municipal Code is hereby *amended* as follows:

AM EN DM EN T

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, or makes or requests appointments on behalf of the same or another direct seller for the purpose of selling goods or services, or provides information regarding goods or services for the purpose of selling the same, 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)

PASSED AND ADOPTED BY THE VILLAGE OF MCFARLAND VILLAGE BOARD

_____.

Presiding Officer

Attest

Carolyn Clow, Village President,
Village of McFarland

Cassandra Suettinger, Deputy
Administrator/Clerk, Village of
McFarland