

# Village of Boyceville Municipal Code

## TITLE 7 - LICENSING AND REGULATION

### CHAPTER 1: DOG LICENSING AND ANIMAL REGULATIONS

All state statutes used as reference throughout this Chapter are hereby adopted and incorporated herein as referenced.

#### Sec. 7-1-1 Dog licenses.

(a) *License Required.* Dogs that are five months of age and older must be licensed in accordance with Wis. Stat. §§ 174.05 (dog license tax), 174.053 (multiple dog licenses), 174.054 (exemption for education and scientific dogs), 174.055 (exemption of dogs for blind, deaf and mobility-impaired), and 174.07 (dog licenses and collar tags).

(b) *Costs.* The license fee is provided in the Village fee schedule. Licenses must be renewed annually. The license period is a calendar year (January 1 – December 31). License fees must be paid by April 1 or within 30 days of acquiring a dog. Failure to comply may result in a late fee per the Village fee schedule.

(c) *Unlicensed dogs.* Owners of unlicensed dogs are subject to penalties pursuant to Wis. Stat. §174.04 (dogs running at large and untagged dogs subject to impoundment, penalties).

(d) *Limitation.* Residential units are limited to a maximum of four dogs and four cats unless licensed pursuant to Wis. Stat. § 174.053 (multiple dog licenses).

#### Sec. 7-1-2 Rabies.

(a) *Rabies Vaccination.* Dogs that are five months of age and older must have rabies vaccination, certification of vaccination, and a rabies tag as set forth in Wis. Stat. § 95.21(2) (rabies control program), which is hereby adopted and incorporated herein.

(b) *Rabies Quarantine.* In the event of a Village quarantine, Wis. Stat. § 95.21(3) (district quarantine) applies.

#### Sec. 7-1-3 Kennels.

(a) *Definition.* Kennel means a property that has three or more dogs kept on premises.

(b) *License requirements.* Licensees must not be in violation of Wis. Stat. § 951 (crimes against animals) and must have adequate space on premises for the number of dogs applied for.

(c) *Applications.* Applications are on file with the Village clerk-treasurer. The license fee is provided in the Village fee schedule.

#### Sec. 7-1-4 Restrictions.

(a) *Activity Restricted.* The following activities are prohibited:

- (1) Running-at-large, which includes dogs:
  - a. chasing or pursuing vehicles on a public road,
  - b. unleased and not under the control of its owner, and/or
  - c. interferes with public passersby.
- (2) Assaulting or attacking a person.
- (3) Destroying property including landscaping of another without consent.
- (4) Habitual barking or howling that annoys others, which is determined by two or more formal complaints within a thirty-day period.
- (5) Killing or wounding another animal.
- (6) Getting infected with rabies or biting an animal with rabies.

(b) *Locations restricted and prohibited.*

- (1) Dogs must be leashed in the following areas:
  - a. Parks,
  - b. School grounds,
  - c. Public playgrounds, and
  - d. Public swimming areas.

## Village of Boyceville Municipal Code

- (2) Dogs are prohibited from cemeteries unless they have a license pursuant to Wis. Stat. § 174.055 (exemption of dogs for blind, deaf, and mobility-impaired) or belong to a law enforcement agency.

### **Sec. 7-1-5 Impoundment.**

(a) *Agency.* The Dunn County Humane Society provides treatment, care, and disposal services pursuant to Wis. Stat. § 173.15.

(b) *Impoundment of Animals.* A law enforcement agent may take an animal into custody pursuant to Wis. Stat. § 173.13 (taking custody of animals).

(c) *Unclaimed Animals.* Unclaimed animals are abandoned or strays and may be taken into custody pursuant to Wis. Stat. § 173.23(1m) (unclaimed animals).

(d) *Holding Animals from Owners.* If there is reason to believe the animal has been a victim of animal abuse in Wis. Stat. § 950 or the animal poses a threat to the public pursuant to Wis. Stat. § 173.21.

### **Sec. 7-1-6 Animal bites.**

(a) *Owner's Responsibility.* Owners must notify Village law enforcement of the bite and allow law enforcement to take custody of the animal for an examination if deemed necessary. Owners must then confine their animal for at least ten days.

(b) *Owner's Liability.* Owners are liable for damages and injuries pursuant to Wis. Stat. § 174.02 (owner's liability for dog bites).

### **Sec. 7-1-7 Animal feces.**

(a) *Public premises.* Owners may not allow their animals to deposit feces on public premises unless immediately removed thereafter.

(b) *Private premises.* Property owners may not allow their animals feces to accumulate on their owned or occupied premises. Owners may not allow their animals to deposit feces on private premises that they do not own or occupy.

### **Sec. 7-1-8 Prohibited animals.**

(a) *Endangered Species.* No one may possess an animal on the Wisconsin Endangered or Threatened Species list pursuant to Wis. Admin. Code NR 27.03 unless in compliance with NR 27.05.

(b) *Wild animals.* No one may possess a protected wild animal or carcass unless in compliance with Wis. Stat. § 29.07 (wild animals, possession in open season). No one may possess a harmful wild animal as classified in Wis. Admin. NR 16.11.

(c) *Dangerous Animals.* No one may own, possess, or keep a dangerous animal. For the purposes of this section, a dangerous animal means:

- (1) Any animal which, without provocation, has attacked, bitten, or injured any human being or domestic animal on public or private property; or
- (2) Any animal which, without provocation, behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of serious injury or death to one or more persons or domestic animals; or
- (3) Any animal which is trained primarily or in part for the purpose of animal fighting.

The provisions of this section shall not apply to dogs owned by law enforcement agencies and used for law enforcement purposes.

### **Sec. 7-1-9 – Animal abuse and neglect.**

(a) *Purpose.* Animal abuse and neglect is strictly prohibited within the Village. The Village expressly adopts and incorporates the following Wis. Stat. §§:

- (1) 951.02 Mistreating animals.
- (2) 951.025 Decompression prohibited.
- (3) 951.03 Dognapping and catnapping.
- (4) 951.04 Leading animal from motor vehicle.

## Village of Boyceville Municipal Code

- (5) 951.05 Transportation of animals.
- (6) 951.06 Use of poisonous and controlled substances.
- (7) 951.07 Use of certain devices prohibited.
- (8) 951.08 Instigating fights between animals.
- (9) 951.09 Shooting at caged or staked animals.
- (10) 951.095 Harassment of police and fire animals.
- (11) 951.097 Harassment of service dogs.
- (12) 951.10 Sale of baby rabbits, chicks and other fowl
- (13) 951.11 Artificially colored animals; sale.
- (14) 951.13 Providing proper food and drink to confined animals.
- (15) 951.14 Providing proper shelter.
- (16) 951.15 Abandoning animals.

### Sec. 7-1-10 Trapping.

(a) *Prohibited.* No one may place, set, or tend to any traps for the purpose of trapping, wounding, killing, catching, or possessing an animal except live humane traps on private property.

(b) *Exception.* Traps may be permitted on private property with consent of the owner or occupant so long as not in violation with Sec. 7-1-9. Private property with consent of property owner's consent is an exception.

### Sec. 7-1-11 Beekeeping.

(a) *Permit.* An annual permit from the Village clerk must be obtained prior to keeping honeybees.

(b) *Regulations.* No person may keep honeybees unless the following regulations are followed:

- (1) *Setbacks.* Beehives must be kept at least twenty (20) feet from any principal structure other than the owner's principal structure. Beehives may not be located within five (5) feet of a side-yard or rear-yard lot line. Beehive entrances must face away from the property line of the residential lot closest to the beehive. Beehives may not be in the front yard.
- (2) *Flyway barrier.* A flyway barrier is defined as a solid or closely slatted, wall, dense line of vegetation, or combination thereof. The purpose of the flyway barrier is to raise the flight path of bees leaving the beehive, thereby limiting their interactions with nearby residents. For any beehive placed within fifty (50) feet of a developed public or private property line, as measured from the nearest point of any hive to the property line, a five (5) foot tall flyway barrier must be constructed and must extend at least ten (10) feet on either side of the nearest beehive.
- (3) *Water sources.* The most common nuisance complaint of urban honeybees is when bees congregate at nearby water sources such as bird baths, pet water bowls, and pools; therefore, beekeepers must maintain two (2) water sources on their property and each water source must be continually filled with water when the bees are active outside of the hive (water sources may be removed in the winter months).

### Sec. 7-1-12 Penalties.

(a) *Forfeitures.* Anyone violating any provision of this Chapter is subject to a forfeiture in Section 1-1-6.

(b) *Multiple offenses.* Each day in violation of this chapter constitutes a separate offense.

(c) *Costs.* An owner of any animal taken into custody under this chapter is responsible for any boarding and veterinary care incurred while in custody.

## CHAPTER 2: MALT BEVERAGES AND INTOXICATING LIQUOR

### Sec. 7-2-1 State statutes adopted.

Wis. Stat. § 125, Alcohol Beverages, is adopted and incorporated by reference herein.

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

As used in this chapter, the terms "alcohol beverages," "intoxicating liquors," "principal business," "legal drinking age," "premises," "sell," "sold," "sale," "restaurant," "club," "retailer," "person," "fermented malt beverages," "wholesalers," "retailers," "operators," and "non-intoxicating beverages" have meanings pursuant to Wis. Stats. ch. 125.

### Sec. 7-2-3 License required.

## Village of Boyceville Municipal Code

(a) *Prohibited activities.* Selling, manufacturing, rectifying, brewing, or engaging in any other activity for which this chapter provides without a license, permit, or other type of authorization is prohibited.

(b) *Exceptions.* As provided for in Wis. Stat. § 125.06.

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

(a) *Retail "Class A" intoxicating liquor license.* Licensees may sell intoxicating liquor to consumers only in original packages for off-premise consumption. They may offer taste samples of wine on premises. Examples: Grocery/Liquor Store.

(b) *Retail "Class B" intoxicating liquor license.* Licensees may sell intoxicating liquor to consumers for on-premise consumption. They may sell for off-premise consumption in quantities not exceeding four liters. Example: Tavern/Restaurant.

(c) *Class "A" fermented malt beverage retailer's license.* Class "A" retailers may sell beer to consumers in any quantity in original packages for off-premise consumption only. They may offer taste samples of beer on premises. Examples: Grocery/Liquor Store.

(d) *Class "B" fermented malt beverage retailer's license.* Class "B" retailers may sell beer to consumers for on-premise or off-premise consumption. Example: Tavern/Restaurant.

(e) *Temporary Class "B" fermented malt beverage license AKA "picnic license."* Licensees may sell beer to consumers at a picnic, wine walk, pub crawl, or similar gathering during a limited duration. Such licenses may only be issued to bona fide clubs, lodges, societies, and churches that have been in existence for at least six months, or to veteran's organizations and fair associations.

(f) *Temporary "Class B" wine license AKA "picnic license."* Licensees may sell wine to consumers at a picnic or similar gathering during a limited duration. Such licenses may only be issued to bona fide clubs, lodges, societies, and churches that have been in existence for at least six months, or to veteran's organizations and fair associations.

(g) *Wholesaler's license.* A wholesaler may possess for sale and sell fermented malt beverages only in original packages or containers to dealers. Such beverages may not be consumed in or about the premises of the wholesaler.

(h) *Retail "Class C" licenses.* Licensees may sell wine by the glass or in an opened original container for consumption on the premises where sold. Such licenses may only be issued for restaurants if the sale of alcohol beverages accounts for less than 50% of the gross receipts. Licenses may not be issued to foreign corporations or foreign LLC's.

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

All license fees, annual or per event, are provided by the Village fee schedule.

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

(a) *Generally.* Application procedures for obtaining a license are outlined in Wis. Stat. § 125.04(3)

(b) *Contents.* Applications must be in writing on the form prescribed by the state department of revenue and be sworn to by the applicant as provided under Wis. Stats. §§ 887.01 to 887.04. The applications must be filed with the Village clerk-treasurer at least 15 days prior to the Board granting the license. The application must describe the physical premise by detailing all rooms, buildings, etc. that the license is to cover.

(c) *Corporations.* Applications must be filed and sworn to by the applicant, and if a corporation is the applicant, the president and secretary must sign the application.

(d) *Publication.* The Village clerk-treasurer will publish each application for a Class "A," Class "B," "Class A," "Class B," or "Class C" license. There is no publication requirement for temporary Class "B" beer licenses under Wis. Stats. § 125.26 or temporary "Class B" picnic wine licenses under Wis. Stats. § 125.51(10) pursuant to Wis. Stats. § 985.08.

## Village of Boyceville Municipal Code

(e) *Amending application.* If information in the application changes, the applicant must notify the Village clerk-treasurer within ten days thereof.

(f) *License quotas.* Retail intoxicating liquor and fermented malt beverage licenses issued by the Village Board will be limited in number to the quota prescribed by state law.

### **Sec. 7-2-7 Qualifications of applicants and premises.**

(a) *Residence requirements.* Applicants must have resided continuously in Wisconsin for at least 90 days prior to the application date.

(b) *Applicant to have malt beverage license.* No retail "Class B" intoxicating liquor license will 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.* Applicants must have legal (by lease or deed) possession of the premises described in the application for the license period.

(d) *Age of applicant.* Applicants must be at least twenty-one years old.

(e) *Corporate restrictions.* A corporation /LLC must meet the seller's permit and criminal offense requirements as well as additional requirements in Wis. Stat. § 125.04. The officers must be of legal drinking age and may be affected by a criminal record as described above. The officers and directors need not be residents of Wisconsin nor attend server training, but the agent must be a Wisconsin resident and complete server training. One agent must be appointed and meet all the qualifications of an individual applicant. The agent has the authority of a licensee who is a natural person. The agent, like an individual licensee, is in control of the premises and of the business conducted there.

(f) *Sales tax qualification.* All applicants for retail licenses must 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 a license.

(g) *Connecting premises.* Except in the case of hotels, no person may hold both a "Class A" license and either a "Class B" license or permit, a Class "B" license or permit, or a "Class C" license for the same premises or for connecting premises. Except for hotels, if either type of license or permit is issued for the same or connecting premises already covered by another type of license or permit, the license or permit last issued is void. If both licenses and permits are issued simultaneously, both are void.

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

The Village clerk-treasurer must inform the police chief, fire chief/inspector, and building inspector of a submitted application. After they complete their inspections to ensure premises conform to the State Building Code and State Board of Health, the officials then must submit their written reports thereof along with their recommendation as to whether the application should be approved or denied.

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

(a) *Considerations.* The Village Board will consider:

- (1) Applicant's criminal history: The Village Board will determine whether the violation is something substantially related to the business of selling alcohol beverages. Violations such as selling liquor without a license, tax evasion, etc., are closely related to this business and might well result in the denial of the license application. The board will weigh the nature of the violation, the time that has elapsed since the violation, the person's overall record in the community, etc., in making that determination pursuant to Wis. Stat. § 125.04(5).
- (2) financial responsibility,
- (3) appropriateness of the proposed location, and
- (4) the fitness for trust.

(b) *Unpaid financial obligations.* Applicant must not have any unpaid or delinquent on taxes, forfeitures, assessments, or other financial claims of the Village.

## Village of Boyceville Municipal Code

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

(a) *Generally.* The Village may grant managers' licenses pursuant to Wis. Stat. § 125.18, and provisional retail licenses pursuant to Wis. Stat. § 125.19. The Village clerk-treasurer must number the licenses in which they are issued pursuant to Wis. Stat. § 125.04(b).

(b) *Opportunity for others to be heard.* Any person has opportunity to be heard for or against the granting of any license.

(c) *Approval.* Upon the Village Board's approval and applicant's payment of fees, the Village clerk-treasurer must issue the applicant a license. The license fee will not be prorated.

(d) *Denial.* If the Village Board denies the application for a license, the applicant must be notified in writing along with the reasons for the denial. The applicant must also be informed of the process for reconsideration in which the applicant may give notice to the Village clerk-treasurer at least ten days prior to the next board meeting at which the applicant may provide evidence as to why the Board should reverse its decision.

### **Sec. 7-2-11 Transfer and lapse of license.**

(a) *Transfer.* Pursuant to Wis. Stat. § 125.04(12), a license is not transferable from one premises to another if such transfer is not first approved by the Village Board. An application for transfer must be made on a form furnished by the Village clerk treasurer. Proceedings for a requested transfer will be in the same form and manner as the original application. The fee for such transfer is ten dollars (\$10.00). Whenever a license is transferred, the Village clerk-treasurer must immediately notify the Wisconsin Department of Revenue. In the event, a licensee sells a business or business premises, the purchaser must apply to the Village for reissuance of the license and the Village is not bound to reissue the license to the subsequent purchaser.

(b) *Corporate agent replacement.* If the agent of a corporate holder of a license is replaced, the licensee must give the Village clerk-treasurer written notice of the replacement, the reasons therefor, and the new appointment. Until the next regular Village Board meeting or special meeting, the successor agent has the authority to perform the functions and duties of the original agent. However, that authority may be revoked if the Wisconsin Department of Revenue or Village police chief sends a notice of disapproval. The corporation's license will not be in force after receipt of such notice or after a regular or special meeting of the Village Board until the successor agent or another qualified agent is appointed and approved by the Village.

### **Sec. 7-2-12 Posting licenses; defacement.**

(a) *Placement.* All liquor and beer licenses must be framed and posted in the room where the business is carried on. Everyone visiting the business must be able to easily see the licenses in that room. Any related permits and licenses (including seller's permits) should be posted with the alcohol beverage license.

(b) *Defacement.* No one may take, deface, or destroy another's license.

### **Sec. 7-2-13 Conditions of license.**

All retail Class "A," Class "B," "Class A" and "Class B" licenses granted are subject to the following conditions:

(a) *Consent to law enforcement entry.* Licensed premises may be inspected by law enforcement officers during all reasonable hours, including all business hours. All rooms connected to the barroom, sales room, or storage area may be inspected as part of the licensed premise. Refusing to permit an inspection is grounds for revocation or suspension of the license.

(b) *Employment of minors.* No retail "Class B" or Class "B" licenses may employ underage persons. This does not apply to hotels and restaurants. Family members may work on the licensed premises but are not permitted to sell or dispense alcohol beverages.

(c) *Disorderly conduct prohibited.* Premises must be conducted in an orderly manner. No disorderly, riotous, or indecent conduct is permitted.



## Village of Boyceville Municipal Code

(d) *Licensed operator, AKA "bartender's license," on premises.* Not all bartenders are required to hold operator's licenses, but there must be at least one licensed operator in charge of the premises pursuant to Wis. Stat. §§ 125.32(2) and 125.68(2).

(e) *Health and sanitation regulations.* Licensees must follow the State Board of Health.

(f) *Schools and churches.* No retail Class "A", Class "B", "Class A" or "Class B" license may be issued for premises, in which the main entrance is less than three hundred (300) feet from the main entrance of any established public school, parochial school, hospital, or church. Distance will be measured by the shortest route along the highway from the closest point of the maintenance entrance of the school, church, or hospital to the main entrance of the premises. This Subsection does not apply to premises licensed as such on June 30, 1947, nor does it apply to any premises licensed as such prior to the occupation of real property within three hundred (300) feet thereof by any school building, hospital building or church building.

(g) *Clubs.* Clubs may only sell intoxicating beverages to bona fide members and their invited guests.

(h) *Gambling.* Gambling or any game of chance is prohibited on licensee's premises.

(i) *Credit.* The licensee may not extend credit for the sale of alcohol or receive/exchange goods for alcohol.

(j) *Licensee or permittee responsible for acts of help.* A violation of this chapter by a duly authorized agent or employee of a licensee or permittee under this chapter constitutes a violation by the licensee or permittee. Whenever any licensee or permittee under this chapter violates any portion of this chapter, proceedings for the suspension or revocation of the license or permit of the holder thereof may be instituted in the manner prescribed in this chapter.

(k) *Improper exhibitions.* No one may perform, or for any licensee or manager or agent of the licensee to permit any employee, entertainer, or patron to engage in any live act, demonstration, dance or exhibition on the licensed premises which:

- (1) Exposes his or her genitals, pubic hair, buttocks, perineum, anal region or pubic hair region;
- (2) Exposes any device, costume or covering which gives the appearance of or simulates genitals, pubic hair, buttocks, perineum, anal region or pubic hair region;
- (3) Exposes any portion of the female breast at or below the areola thereof; or
- (4) Engages in or simulates sexual intercourse and/or any sexual contact, including the touching of any portion of the female breast or the male and/or female genitals.

### **Sec. 7-2-14 Closing hours.**

Closing hours must conform to Wis. Stats. § 125.32(3). Further restrictions are as follows:

(a) *"Class B," Class "B," or "Class C" licenses.* Licensees may not have their establishment open for the sale of liquor or fermented malt beverages or for any other purpose between the hours of 2:00 a.m. and 6:00 a.m., Monday through Friday, and between 2:30 a.m. and 6:00 a.m., Saturday and Sunday. However, the licensee may remain open during all hours of January 1.

(b) *Carryout hours.* "Class A" or Class "A" licensees may not sell, remove, carry out or allow the removal or carry out of any intoxicating liquor in original unopened packages, containers, or bottles between the hours of 9:00 p.m. and 6:00 a.m.

(c) *Daylight savings.* Section 175.095(2), Wis. Stats., states that daylight saving time begins at 2:00 a.m. the second Sunday in March and ends at 2:00 a.m. the first Sunday in November.

### **Sec. 7-2-15 Restrictions on temporary malt beverage or wine licenses (AKA "picnic licenses")**

(a) *Restrictions.* Temporary Class "B" fermented malt beverage or temporary "Class B" wine must comply with the following:

- (1) *Eligibility standards.* The organization must meet the eligibility requirements of a bona fide club, association, lodge, or society as set forth in Wis. Stats. § 125.26(6) and must fully comply with the requirements of this section and other related provisions of the Code.

## Village of Boyceville Municipal Code

- (2) *Informational meeting.* Members of an organization which is issued a temporary license and who are issued operator's licenses for the event may be required to attend a pre-event informational meeting to learn what rules and regulations apply and what the responsibilities of the bartenders and organization are.
- (3) *Underage persons prohibited from selling, buying, or consuming.*
  - a. Underage persons are not allowed to purchase, consume, or assist in the sale of beer or wine. They are also not allowed to loiter or linger in sale.
  - b. Signs must be posted informing all patrons that they must have a valid identification of age to purchase such beverages.
- (4) *Fencing.* If necessary due to the physical characteristics of the site, the Village Board may require that organizations install a double fence around the main point of sale to control a stationed licensed operator, security guard, or other competent person at the entrance for the purpose of checking age identification. Where possible, there should only one entrance/exit. When required, the double fence must be a minimum of four feet high and a minimum of six feet between fences.
- (5) *Suitable facilities.* For indoor events, the structure must have suitable exits and open spaces to accommodate anticipated attendance. It should contain adequate sanitary facilities to accommodate the size of the group.
- (6) *Licensed operators' requirement.* A licensed operator (AKA licensed bartender) must always be present at all points of sale.
- (7) *Waiver.* The Village Board may waive or modify the requirements of this section due to the physical characteristics of the licensed site.
- (8) *Insurance.* The licensee may be required to indemnify, defend and hold the Village and its employees and agents harmless against all claims, death of any person, or any damage to property caused by or resulting from the activities for which the permit is granted. The licensee may be required to provide a certificate of comprehensive general liability insurance and/or a performance bond

### **Sec. 7-2-16 Revocation and suspension of licenses; nonrenewal.**

(a) *Procedure.* If a licensee violates the terms of this Chapter or related provisions of this Code, revocation proceedings may be initiated.

(b) *Abandonment of premises.* The loss of the licensed premises for at least six months constitutes prima facie evidence for abandonment, unless extended by the Village Board.

(c) *License revocation or suspension.* License revocation or suspension procedures prescribed by Wis. Stats. § 125.12 apply to all licensees.

### **Sec. 7-2-17 Non-alcohol events for underage persons on licensed premises.**

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

(a) The licensee or agent of a corporate licensee must notify the police department at least 48 hours in advance of the date of any event at which underage persons will be present on the licensed premises. The non-alcohol event notice must specify the date on which the event is to occur and the time of commencement. All notices must be filed with the police department by calling the 24-hour phone number and advising Dispatch to forward the information to the police department. After a non-alcohol event notice is given, the licensee may cancel an event by giving like notice to the police department in accordance with the provisions of this subsection. Regardless of the date given, all notices expire and are void no later than the date of expiration or revocation of the applicable license.

(b) During the period of any non-alcohol event, a notice card prescribed by the police department must be posted at all public entrances to the licensed premises notifying the general public that no alcohol beverages may be consumed, sold, or given away on, or carried into, the licensed premises during the event. Notice cards are available by the Village to a requesting licensee.

(c) Once a non-alcohol event commences, no alcohol beverages may be consumed, sold, or given away on, or carried into the licensed premises, until the next day following the closing hours of the licensed premises.



## Village of Boyceville Municipal Code

(d) During the period of any non-alcohol event, all alcohol beverages must be stored in a locked portion of the licensed premises in a secure place out of the sight and physical reach of any patron present and must be under the direct and immediate control and supervision of the licensee or licensed employee. All beer taps and automatic dispensers of alcohol beverages ("speed guns") must be either disconnected or otherwise made inoperable.

### **Sec. 7-2-18 Outdoor Sports.**

(a) *Purpose.* The Village Board finds there must be necessary restrictions on outdoor sports and activities at premises that have a "Class B" and Class "B" liquor and beer licenses due to concerns regarding noise, density, and related problems.

(b) *Approval required.* No licensee may conduct or sponsor any outdoor sports activity, event, or beer garden on the licensed premises without the prior approval of the Village Board.

(c) *Application.* If a licensee conducts or sponsors any outdoor sports activity, event, or beer garden on the licensee's property, the licensee must file an application with the Clerk setting forth the following information:

- (1) The name, address and telephone number of the person or persons who is responsible for the actual conduct of the activity or event;
- (2) The date and duration of time for the proposed activity or event;
- (3) An accurate description of that portion of the licensee's property proposed to be used;
- (4) Good faith estimates of the number of users, participants, and spectators; and
- (5) The licensee's plan for maintaining the cleanliness of the licensed area.

(d) *Time for filing.* The licensee must file the application not less than thirty (30) days before the date of the proposed activity or event. The Village Board may waive the time limit upon a licensee's showing of exigent circumstances. The application must be accompanied by payment of a fee as prescribed in the Village fee schedule for review of the application.

(e) *Review.* The Village Board must review the application's conformance to this chapter. If the nature of the property or the event requires the imposition of additional regulations, the Village Board may do so by detailing its reasons therefor.

(f) *Outdoor sports activity standards.* The following standards must apply to any outdoor sports activity regulated under this section:

- (1) Approval of an application is not acted to permit outdoor consumption of alcohol beverages on the property beyond the area specifically licensed.
- (2) If the estimated number of participants and spectators exceed the number for which the rest room facilities on the licensed premises, the licensee must provide several portable temporary rest rooms sufficient to serve the estimated number of persons.
- (3) Generally, the Village Board will not grant approval to any applicant whose property on which the activity or event is proposed is adjacent to any property zoned residential or on which a residential use exists as a nonconforming use, or within seventy (70) feet of any property zoned residential or on which a residential use exists as a nonconforming use. Fencing may be required.
- (4) The applicant must provide parking adequate for the proposed activity or event, whether on site or through agreements with property owners shown to the Village Board's satisfaction to permit their property to be used for parking for the proposed activity or event.
- (5) The applicant must show the Village Board plans adequate to provide reasonable access to participants and spectators for the event and to limit access for all other persons.

(g) *Maintenance.* The licensee must clean up all garbage and debris relating to the activity or event at least once per twenty-four (24) hours during the activity or event.

(h) *Noise.* The licensee must not allow the noise level to exceed 75 dB, which may be measured at any point of the licensee's property line.

(i) *Violations.* Failure to abide by these provisions constitute grounds for license suspension, non-renewal, or revocation.

## Village of Boyceville Municipal Code

### Sec. 7-2-19 Cabaret licenses; Dancing in Taverns

(a) *License required.* No person may hereafter keep, maintain, conduct, or operate any cabaret without first obtaining a license therefor. The term "cabaret" is defined as a place to which the general public is admitted and where entertainment, such as singing, vaudeville, or dancing, is furnished to patrons by the management, with or without special charge therefor, and where intoxicating liquor, or fermented malt beverages, or both, are sold, dispensed, or served.

(b) *Classes of licenses and fees.*

- (1) There are two classes of cabaret licenses designated to Class "A" and Class "B." Holders of Class "A" cabaret licenses will be permitted to conduct a cabaret as defined in subsection (a). Holders of Class "B" cabaret licenses are permitted to conduct a cabaret as defined in subsection (a), except Class "B" cabaret licenses may not provide music for dancing or permit dancing on the premises.
- (2) The license fee for the year or any part of the year is provided in the Village fee schedule. Licenses expire on the June 30 following its issuance.

(c) *Applications.* Any person desiring a cabaret license submit an application in writing, which must include the location of the premises, the street on which all entrances are located, the name of the owner of such premises, the name of the lessee thereof, if any, the name of the person proposing to operate the cabaret, the name of the manager, if any, to be in charge of cabaret, a description of other businesses to be conducted upon the licensed premises, a statement of the nature of the entertainment to be furnished, a statement of whether or not additional or special charges will be made for such entertainment, and a statement of the length of time the owners and managers of the proposed cabaret have resided in the Village, together with the employment or occupation of each for the past two years.

(d) *Investigation.* Each application submitted will immediately be transmitted by the Village clerk-treasurer to the chief of police, the fire chief, and the building inspector, and the officers will, within five days report in writing the results of their investigations and their recommendations to approve or deny the application. Thereafter, applications must be presented for action by the Village Board at the next meeting.

(e) *Granting license.* Licenses may be granted to each applicant who is approved by a majority vote of the Village Board, which has the discretion to deny any license or transfer thereof if it determines that its contrary to the public interests, either because of the unsuitability of the location, undesirability or unreliability of the applicant or the manager, or because of the failure of the applicant or the manager to previously observe the provisions of this Code.

(f) *License.* The license contains a description of the premises licensed and the name and address of the licensee. The Village clerk-treasurer will number the licenses consecutively beginning with the number one in each year. Licenses must always be posted conspicuously in the premises licensed when they are in use.

(g) *Transfer of license.* Cabaret licenses are not transferable as to location but may be transferred as to ownership by the Village Board, upon approval of the new owner's application for the transfer and payment of the license fee.

(h) *Conditions of license.* Licensees must comply with the following conditions:

- (1) Each room used for cabaret purposes must have a direct entrance from the public street unless the entire interior thereof is visible through windows from the street, and all parts of the premises are open and unobstructed by partitions, screens or other devices.
- (2) Efficient means must be employed to prevent the ordinary sounds of music, dancing, singing, or entertainment within the cabaret from being heard on adjoining premises or on the public street, and no unusually loud music, singing, or entertainment, or any boisterousness or noisy conduct on the part of the patrons is permitted.
- (3) All cabarets must always be brightly lighted when any patrons will be therein, and at all times when the same is open to the public.
- (4) Every cabaret will have the same closing hours as established in in this chapter.
- (5) No minor under the age of 18 years will be permitted in any cabaret unless accompanied by parent or guardian.
- (6) No prostitute, procurer, or vagrant is permitted upon the premises of any cabaret.

## Village of Boyceville Municipal Code

- (7) No intoxicated person is permitted to remain in any cabaret, and no person bordering on intoxication may be served with any beverage containing alcohol or be permitted to dance in any cabaret.
- (8) No entertainment or dancing is permitted which is considered vulgar, suggestive, licentious, or offensive to public morals and decency.
- (9) Every cabaret must be provided with separate isolated toilets and lavatory facilities for each sex, which must be constructed and maintained in a sanitary condition in conformity with the laws of the state and the provisions of this Code.
- (10) There must be at least two exit doors leading to the outside, each not less than three feet in width.
- (11) The sales, service, furnishing or consumption of commodities for which licenses are otherwise required are not permitted in any cabaret unless the proper license or licenses therefor are obtained for the premises, in the name of the owner or manager of such cabaret; all rules and regulations applicable to such licenses, as set out in this Code, fully apply on cabaret premises.
- (12) No premises will be licensed, maintained, or operated as a cabaret unless the unobstructed floor space, excluding floor space occupied by tables and chairs for service to patrons, is 100 square feet or more.

### Sec. 7-2-20 Nude Dancing Prohibited

#### (a) Authority.

- (1) The Village Board has explicit authority under § 125.10(1), Wis. Stats., to adopt regulations governing the sale of alcohol beverages which are in addition to those set forth in Ch. 125, Wis. Stats.
- (2) The Village Board has authority under its general police powers set forth in Ch. 61, Wis. Stats., to act for the good order of the municipality and for the health, safety and welfare of the public and may carry out its powers by regulation and suppression.

(b) *Purpose.* The Village Board desires to minimize, prevent, and control the secondary, adverse effects, such as an increase of criminal and other offensive activity that disrupts the peace, that other communities have experienced by allowing live, totally nude, non-obscene, erotic dancing. The Village Board intends to protect the health, safety, and general welfare of the citizens; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods; and deter the spread of urban blight. The Village Board has determined that enactment of an ordinance prohibiting live, totally nude, non-obscene, erotic dancing in bars and taverns licensed to serve alcohol beverages promotes the goal of minimizing, preventing, and controlling the negative secondary effects associated with such activity.

(c) *Not intended to limit rights.* The Village Board recognizes that the United States Supreme Court has held that nude dancing is expressive conduct within the outer perimeters of the First Amendment to the United States Constitution and therefore entitled to some limited protection under the First Amendment. The Village Board further recognizes that freedom of speech is among our most precious and highly protected rights and wishes to act consistently with full protection of those rights. The Village Board recognizes it lacks authority to regulate obscenity and does not intend to regulate obscenity, since nudity in and of itself is not obscene.

(d) *Nude dancing in licensed establishments prohibited.* It is unlawful for any person to perform or engage in, or for any licensee or manager or agent of the licensee to permit any person, employee, entertainer, or patron to perform or engage in, any live act, demonstration, dance or exhibition on the premises of a licensed establishment which:

- (1) Shows his/her genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering;
- (2) Shows any portion of the female breast below a point immediately above the top of the areola; or
- (3) Shows the covered male genitals in a discernibly turgid state.

#### (c) Exemptions.

- (1) *Breastfeeding.* Notwithstanding any other provision of this ordinance, a mother may breast feed her baby in any location, public or private, where the mother is otherwise authorized to be, irrespective of whether the nipple of the mother's breast is uncovered during or incidental to the breast feeding.
- (2) *Arts.* The provisions of this ordinance do not apply to the following establishments: theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis; and in which the predominant business or attraction is not the offering of entertainment which is intended for the sexual interest or titillation of customers; and where the establishment is not distinguished by an emphasis on or the advertising or promotion of nude performances.

## Village of Boyceville Municipal Code

(f) *Penalties.* Violators are subject to the general penalties in 1-1-6. Violation of this section also constitutes grounds for suspending, revoking, or nonrenewing an alcohol beverage license under Wis. Stats § 125.12.

**Sec. 7-2-21 through 7-2-2 Reserved for future use.**

### ARTICLE B. OPERATOR'S LICENSE (AKA BARTENDER'S LICENSE)

#### **Sec. 7-2-30. - Operator's license required.**

(a) Licensed operators are responsible for supervising activities on Class "A" beer, Class "B" beer, "Class B" intoxicating liquor, and "Class A" intoxicating liquor and "Class C" wine premises during required hours in absence of the licensee or approved agent of corporation/limited liability company. Licensed operators are also required on the premises of Temporary "Class B" licenses.

(b) *Use by another prohibited.* No persons may allow another to use their Class "A" or Class "B" license or permit to sell alcohol beverages. The license or permit of a person who violates this subsection may be revoked.

#### **Sec. 7-2-31 Application Procedures**

(a) *Authority.* Pursuant to Wisc. Stat. 125.17(1), the Village Board authorizes the Village Clerk/Treasurer the duty and authority to issue Operator's licenses under this Chapter.

(b) *Age requirement.* The Village Clerk/Treasurer may issue an operator's license, which shall be granted only upon written application on forms available from Village Hall only to persons eighteen (18) years of age or older.

(c) *Subject to Investigation.* All applications are subject to an investigation by the Police Department to determine whether the applicant complies with all regulations, ordinances, and applicable laws. The investigation of the applicant must include but is not limited to the applicant's arrest and conviction record, residency, and police and court records. Based upon the investigation, the Police Department shall recommend on the application form to the Village Clerk/Treasurer the approval or denial of the application. If the Police Department recommends denial, it must provide the reason(s) for such recommendation on the application form.

#### **Sec. 7-2-32 License Duration**

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

#### **Sec. 7-2-33 Fees**

The fees for operators' licenses will be set by the Village Board.

#### **Sec. 7-2-34 Provisional or Temporary Licenses**

(a) *Provisional License.*

- (1) The Village Clerk/Treasurer may issue provisional operator's licenses in accordance with Wis. Stat. § 125.17(5).
- (2) The provisional operator's license shall expire sixty (60) days after its issuance or when an operator's license is issued to the holder, whichever is sooner.
- (3) The Police Department shall submit to the Clerk/Treasurer a report regarding the applicant's conviction history, if any.
- (4) The applicant for such provisional license must present evidence to the Clerk/Treasurer establishing that the applicant is enrolled in an Alcohol Awareness Training Program established pursuant to Wis. Stat. § 125.17(6). The Village Clerk/Treasurer may, upon receiving an application for a temporary provisional license, issue such a license without requiring the successful completion of the approved program as described herein. However, such temporary license shall be used only for the purpose of allowing such applicant the privilege of being licensed as a beverage operator pending their successful completion of the approved program, and the applicant shall also apply for a regular operator's license.
- (5) A provisional license may not be issued to any person who has been denied an operator's license by the Village, who has had an operator's license revoked or suspended within the preceding twelve (12) months, or who previously held an operator's license and who failed to complete the Alcohol Awareness Training Program without first successfully completing the program.

## Village of Boyceville Municipal Code

(6) The Village Clerk/Treasurer shall provide an appropriate application form to be completed in full by the applicant. The Village Clerk/Treasurer may revoke the provisional license issued if they discover that the holder of the license made a false statement on the application. A provisional license is nonrenewable.

(b) *Temporary License.* The Clerk-Treasurer may issue a temporary operator's license provided:

- (1) This license may be issued only to operators employed by, or donating their services to, nonprofit corporations.
- (2) No person may hold more than two (2) license of this kind per year.
- (3) The license is valid for any period from one (1) day to fourteen (14) days, and the period for which it is valid shall be stated on the license.

### **Sec. 7-2-35 Issuance or Denial or Operator's Licenses.**

(a) *Issuance.* After the Village Clerk/Treasurer approves the granting of an operator's license, they shall issue the license. Such licenses shall be issued and numbered in the order they are granted and shall give the applicant's name and address and the date of the expiration of such license.

(b) *Denial.*

- (1) If the application is denied by the Village Clerk/Treasurer, the applicant must be informed in writing of the denial, the reasons therefore, and of the opportunity to request 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 (10) days prior to the Board's consideration of the matter.
- (2) Consideration for the granting or denial of a license will be based on arrest and conviction record of the applicant, subject to the limitations imposed by Wis. Stat. §§ 111.321, 111.322, and 111.335. If a Licensee is convicted of an offense substantially related to the licensed activity, the Village may act to revoke or suspend the license.
- (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, the Village 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, at its discretion, may, based upon an arrest or conviction record of two or more offenses which 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.

(c) *Appeal to Village Board/Circuit Court.*

- (1) If after receiving the notice of denial in sub (b), the applicant may request to appeal to the Village Board. At the appeal hearing, the applicant may present evidence and testimony as to why the license should be granted.
- (2) If, upon consideration, the Board denies the application, the Village Clerk/Treasurer shall notify the applicant in writing of the reasons. An applicant who is denied any license upon reconsideration of the matter, may apply to Circuit Court pursuant to Wis. Stat. § 125.12 for review.

### **Sec. 7-2-36 Training Course**

(a) *Required.* Except as provided below, the Village may not issue an operator's license unless the applicant has successfully completed a responsible beverage server training course at any location that is offered by a vocational, technical and adult education district and that conforms to curriculum guidelines specified by the board of vocational, technical and adult education or a comparable training course that is approved by the educational approval board.

(b) *Exceptions.* The applicant fulfills one of the following requirements:

- (1) The person is renewing an operator's license.
- (2) Within the past two (2) years, the person held a Class "A", Class "B", "Class A", "Class B", or "Class C" license or permit or a manager's or operator's license.
- (3) Within the past two (2) years, the person has completed such a training course.



## Village of Boyceville Municipal Code

(c) *Currently enrolled.* The Village may issue a provisional operator's license to a person who is enrolled in a training course and shall revoke that license if the applicant fails successfully to complete the course in which he or she enrolls.

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

### **Sec. 7-2-37 Display of License**

Each license issued under the provisions of this Chapter shall be posted in accordance with Wis. Stat. § 125.04.

### **Sec. 7-2-38 Revocation of Operator's License**

Violation of any of the terms or provisions of the State law or of this Chapter relating to operator's licenses by any person holding such operator's license shall be cause for revocation of the license in accordance with Wis. Stat. § 125.12.

### **7-2-39 - Reserved for future use.**

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

(a) Forfeitures for violations of Wis. Stats. § 125.07(1)-(5) and 125.09(2), adopted by reference in section 7-2-1, conform to the forfeiture penalty permitted to be imposed for violations of the comparable state statute, including any variations or increases for subsequent offenses.

(b) Any person who violates any provision of this chapter, except as otherwise provided in subsection (a) of this section or who conducts any activity or make any sale for which a license is required without a license, will be subject to a forfeiture as provided in the Village fee schedule.

(c) Nothing herein will preclude or affect the power of the sentencing court to exercise additional authorities granted by the state statutes.

## **CHAPTER 3: TOBACCO SALES**

### **Sec. 7-3-1. - Cigarette license.**

(a) *Required.* No person may sell cigarettes in the Village without first obtaining a license from the Village Board and be in accordance with Wis. Stat. § 134.65.

(b) *Fee.* The license fee is provided in the Village fee schedule.

(c) *Duration.* Licenses issued under this section are valid from the date of issuance and expire on the following June 30th.

## **CHAPTER 4: TRANSIENT MERCHANTS**

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

It is unlawful for transient merchants to engage in direct sales within the Village without being registered for that purpose as provided herein.

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

(a) *Charitable organization* includes any benevolent, philanthropic, patriotic, or eleemosynary person, partnership, association, or corporation, or one purporting to be such.

(b) *Merchandise* includes personal property of any kind, and includes merchandise, goods, or materials provided incidental to services offered or sold. The sale of merchandise includes donations required by the seller for the retention of goods by a donor or prospective customer.

(c) *Permanent merchant* is any person who, for at least one year prior to the consideration of the application of this chapter to the merchant, has continuously operated an established place of business in the Village or has continuously resided in the Village and now does business from his/her residence.

## Village of Boyceville Municipal Code

(d) *Transient merchant* is any individual who engages in the retail sale of merchandise at any place in this state temporarily and who does not intend to become and does not become a permanent merchant of such place. For purposes of this chapter, "sale of merchandise" includes a sale in which the personal services rendered upon or in connection with the merchandise constitute the greatest part of value for the price received but does not include a farm auction sale conducted by or for a resident farmer of personal property used on the farm or the sale of produce or other perishable products at retail or wholesale by a resident of this state.

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

(a) The following are exempt from this chapter:

- (1) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes;
- (2) Any person selling merchandise at wholesale to dealers of such merchandise;
- (3) Any person selling state agricultural products which the person has grown;
- (4) Any permanent merchant or employee thereof who takes orders at the home of the buyer for merchandise regularly offered for sale by such merchant within this county and who delivers such merchandise in their regular course of business;
- (5) Any person who has an established place of business where the merchandise being sold or is offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested, a home visit by, that person;
- (6) 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;
- (7) Any person selling or offering for sale a service unconnected with the sale or offering for sale of merchandise;
- (8) 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;
- (9) Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of the organization, provided that there is submitted to the Village clerk-treasurer proof that such charitable organization is registered under Wis. Stats. § 440.41. Any charitable organization engaging in the sale of merchandise and not registered under Wis. Stats. § 440.41 or which is exempt from that statute's registration requirements will be required to register under this chapter.
- (10) Any person who claims to be a permanent merchant, but against whom complaint has been made to the Village clerk-treasurer that such person is a transient merchant, provided that there is submitted to the Village clerk-treasurer proof that such person has leased for at least one year, or purchased, the premises from which the merchant is conducting business, or proof that such person has conducted such business in this Village for at least one year prior to the date complaint was made.
- (11) Any individual licensed by an examining board as defined in Wis. Stats. § 15.01(7).
- (12) Transient merchants while doing business at special events authorized by the Village Board.
- (13) Minors under 18 years of age who are residents of the Village.

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

(a) *Registration information.* Applicants for registration must complete and return to the Village clerk-treasurer a registration form with the following information:

- (1) Name, permanent address and telephone number, and temporary address, if any;
- (2) Height, weight, color of hair and eyes, and date of birth;
- (3) Name, address and telephone number of the person, firm, association or corporation that the transient merchant represents or is employed by, or whose merchandise is being sold;
- (4) Temporary address and telephone number from which business will be conducted, if any;
- (5) Nature of business to be conducted and a brief description of the merchandise offered and any services offered;
- (6) Proposed method of delivery of merchandise, if applicable;
- (7) Make, model and license number of any vehicle to be used by applicant in the conduct of the business;
- (8) Last cities, villages, towns, not to exceed three, where applicant conducted similar business just prior to making this registration;
- (9) Place where applicant can be contacted for at least seven days after leaving this Village; and

## Village of Boyceville Municipal Code

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

(b) *Identification and certification.* Applicants must have the following documents readily available for the clerk-treasurer to examine:

- (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 applicant's business requires use of weighing and measuring devices approved by state authorities; and
- (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 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) *Registration fee.*

- (1) At the time of filing applications, an application processing fee in the amount provided in the Village fee schedule must be paid to the Village clerk-treasurer to cover the cost of investigation of the facts stated in the applications and for processing the registration. Every member of a group must file a separate registration form.
- (2) Applicants must sign a statement appointing the Village clerk-treasurer as their agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant, in the event the applicant cannot, after reasonable effort, be served personally.
- (3) Every applicant must pay a daily registration fee in the amount provided in the Village fee schedule.
- (4) Upon payment of the fees and the signing of the statement, the Village clerk-treasurer will register the applicant as a transient merchant and date the entry. The registration is valid for a period of one year from the date of entry, subject to subsequent refusal as provided in section 7-4-5(b).

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

(a) Upon receipt of each application, the Village clerk-treasurer will refer it immediately to the police department for an investigation of the statements made in such registration, which should be completed within five days from the time of referral.

(b) The Village clerk-treasurer will not register the applicant and issue a permit if the investigation reveals any of the following:

- (1) The application contains any material omission or materially inaccurate statement;
- (2) Complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns, not exceeding three, in which the applicant conducted similar business;
- (3) The applicant was convicted of a crime, statutory violation, or ordinance violation within the last five years of the nature related to the applicant's fitness to engage in direct selling; or
- (4) The applicant failed to comply with any applicable provision of section 7-4-4(b).

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

Any person denied registration may appeal through the appeal procedure provided by ordinance or resolution of the Village Board or, if none has been adopted, under the provisions of Wis. Stats. §§ 68.07 through 68.16.

### **Sec. 7-4-7 Regulation.**

(a) *Prohibited practices.*

- (1) A transient merchant is prohibited from:
  - a. Calling at any dwelling or other place between the hours of 9:00 p.m. and 8:00 a.m., except by appointment;
  - b. Calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning;
  - c. Calling at the rear door of any dwelling place; or
  - d. Remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.

## Village of Boyceville Municipal Code

- (2) Transient merchants must not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any merchandise offered for sale, the purpose of the visit, their identity or the identity of the organization they represent. A charitable organization transient merchant must specifically disclose what portion of the sale price of merchandise being offered will be used for the charitable purpose for which the organization is soliciting. The portion must be expressed as a percentage of the sale price of the merchandise.
- (3) Transient merchant must not impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations must be observed.
- (4) Transient merchant must not make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a 100-foot radius of the source.
- (5) Transient merchants must not allow rubbish or litter to accumulate in or around the area in which they are conducting business.

### (b) *Disclosure requirements.*

- (1) After the initial greeting and before any other statement is made to a prospective customer, transient merchants must expressly disclose their name, the name of the company or organization they are affiliated with, if any, and the identity of merchandise or services they offer to sell.
- (2) If any sale of merchandise is made by a transient merchant or any sales order for the later delivery of merchandise is taken by the seller, the buyer has the right to cancel the transaction if it involves the extension of credit or is a cash transaction of more than \$25.00, in accordance with the procedure set forth in Wis. Stats. § 423.203; the seller must give the buyer two copies of a typed or printed notice thereof and conform to the requirements of Wis. Stats. § 423.203(1)(a)(b) and (c), (2) and (3).
- (3) If a transient merchant takes a sales order for the later delivery of merchandise, they must, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance, whether full, partial, or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date and whether a guarantee or warranty is provided and, if so, the terms thereof.

### **Sec. 7-4-8 Records.**

If law enforcement reports any convictions for violations of this chapter, the Village clerk-treasurer must note the violation on the registrant's record.

### **Sec. 7-4-9 Revocation of registration.**

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

(b) Written notice of the hearing must be served personally on the registrant at least 72 hours prior to the time set for the hearing and must indicate the time and place of hearing and a statement of the acts upon which the hearing will be based.

## **CHAPTER 5: MANUFACTURED AND MOBILE HOMES**

### **Sec. 7-5-1 Monthly parking fee; limitations on parking.**

(a) The Village has established a monthly parking fee pursuant to Wis. Stats. § 66.0435 which is hereby adopted by reference and made part of this chapter. It is the licensee's responsibility to collect the proper amount from each mobile homeowner and send payment to the Village clerk-treasurer on or before the tenth day of the month for which such fees are due. The fees shall follow the Village fee schedule.

- (1) Licensees of mobile home parks and owners of land on which homes are parked, any occupied, nonexempt mobile homes must provide information on a form furnished by the Village to the Village clerk-treasurer and assessor within five days after arrival of a home.
- (2) Occupants or owners of non-exempt mobile homes parked outside of a mobile home park must send fees directly to the Village clerk-treasurer as provided in subsection (a) of this section. It is the licensee's responsibility.

## Village of Boyceville Municipal Code

(b) It is unlawful for any person to park any mobile home in the Village at any site other than a licensed mobile home park except for those locations that are nonconforming uses pursuant to Village zoning provisions.

### CHAPTER 6: REGULATION AND LICENSING OF FIREWORKS

#### Sec. 7-6-1 Fireworks Regulations

(a) *Definition.* In this section, the term "fireworks" means anything manufactured, processed, or packaged for exploding, emitting sparks or combustion which does not have another common use, but does not include any of the following:

- (1) Fuel or a lubricant.
- (2) A firearm cartridge or shotgun shell.
- (3) A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft, or motor vehicle.
- (4) A match, cigarette lighter, stove, furnace, candle, lantern, or space heater.
- (5) A cap containing not more than one-quarter grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.
- (6) A toy snake which contains no mercury.
- (7) A model rocket engine.
- (8) Tobacco and a tobacco product.
- (9) A sparkler on a wire or wood stick not exceeding 36 inches in length or 0.25 inch in outside diameter which does not contain magnesium, chlorate, or perchlorate.
- (10) A device designed to spray out paper confetti or streamers and which contains less than one-quarter grain of explosive mixture.
- (11) A device designed to produce an audible sound but not explode, spark, move or emit an external flame after ignition and which does not exceed three grams in total weight.
- (12) A device that emits smoke with no external flame and does not leave the ground.
- (13) A cylindrical fountain not exceeding 100 grams in total weight with an inside tube diameter not exceeding 0.75 inch, designed to sit on the ground and emit only sparks and smoke.
- (14) A cone fountain not exceeding 75 grams in total weight, designed to sit on the ground and emit only sparks and smoke.

(b) *Sale.* No person may sell or possess with intent to sell fireworks, except:

- (1) To a person holding a permit under subsection (c)(3) of this section;
- (2) To a municipality; or
- (3) For a purpose specified under subsections (c)(2)a through (c)(2)f of this section.

(c) *Use.*

- (1) *Permit required.* No person may possess or use fireworks without a user's permit from the Village. No person may use fireworks or a device listed under subsections (a)(5) through (a)(7) and (a)(9) through (a)(14) of this section while attending a fireworks display for which a permit has been issued to a person listed under subsection (c)(3)a through (c)(3)e of this section or under subsection (c)(3)f of this section if the display is open to the general public. Fees are subject to the fee schedule.c
- (2) *Permit exceptions.* Subsection (c)(1) of this section does not apply to:
  - a. The Village, except that Village fire and law enforcement officials must be notified of the proposed use of fireworks at least two days in advance.
  - b. The possession or use of explosives in accordance with rules or general orders of the state department of industry, labor, and human relations.
  - c. The disposal of hazardous substances in accordance with rules adopted by the state department of natural resources.
  - d. The possession or use of explosive or combustible materials in any manufacturing process.
  - e. The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.
  - f. A possessor or manufacturer of explosives in possession of a license or permit under 18 USC 841 to 848 if the possession of the fireworks is authorized under the license or permit.
- (3) *Who may obtain permit.* A permit under this section may be issued only to the following:
  - a. A public authority.
  - b. A fair association.
  - c. An amusement park.



## Village of Boyceville Municipal Code

- d. A park board.
  - e. A civic organization.
  - f. A group of resident or nonresident individuals.
  - g. An agricultural producer for the protection of crops from predatory birds or animals.
- (4) *Crop protection signs.* A person issued a permit for crop protection must erect appropriate warning signs disclosing the use of fireworks for crop protection.
- (5) *Bond.* A permit issued under this section requires an indemnity bond with sufficient sureties or policy of liability insurance for the payment of all claims that may arise by reason of injuries to person or property from the handling, use or discharge of fireworks under the permit. The bond or policy will be taken in the name of the Village, and any person injured thereby may bring an action on the bond or policy in the person's own name to recover the damage the sustained, but the aggregate liability of the surety or insurer to all persons must not exceed the amount of the bond or policy. The bond or policy, together with a copy of the permit, must be filed with the Village clerk-treasurer.
- (6) *Required information for permit.* A permit under this section must specify all of the following:
- a. The name and address of the permit holder.
  - b. The date on and after which fireworks may be purchased.
  - c. The kind and quantity of fireworks which may be purchased.
  - d. The date and location of permitted use.
  - e. Other special conditions prescribed by ordinance.
- (7) *Copy of permit.* A copy of a permit under this section must be given to the fire chief and chief of police at least two days before the date of authorized use.
- (8) *Minors prohibited.* A permit under this section may not be issued to a minor.
- (d) *Storage and handling.*
- (1) *Fire extinguishers required.* No wholesaler, dealer, or jobber may store or handle fireworks on the premises unless the premises are equipped with fire extinguishers approved by the fire chief.
  - (2) *Smoking prohibited.* No person may smoke where fireworks are stored or handled.
  - (3) *Fire chief to be notified.* A person who stores or handles fireworks must notify the fire chief of the location of the fireworks.
  - (4) *Storage distance.* No wholesaler, dealer, or jobber may store fireworks within 500 feet of a dwelling.
  - (5) *Restrictions on storage.* No person may store fireworks within 500 feet of a public assemblage or place where gasoline or volatile liquid is sold in quantities exceeding one gallon.
- (e) *Parental liability.* A parent or legal guardian of a minor who consents to the use of fireworks by the minor is liable for damages caused by the minor's use of the fireworks.

### CHAPTER 7. - STREET USE PERMITS

#### Sec. 7-7-1 Regulations for application for street permit.

- (a) *Purpose.* This chapter is enacted to regulate and control the use of streets pursuant to a street use permit provided that the health, safety, and general welfare of the public and the good order of the Village can be protected and maintained.
- (b) *Application.* A written application for a street use permit the applicant desiring the same must be made on a form provided by the Police Department and must be filed with the Chief of Police. The application must set forth the following information regarding the proposed street use:
- (1) The name, address and telephone number of the applicant or applicants.
  - (2) If the proposed street use is to be conducted for, on behalf of, or by an organization, the name, address, and telephone number of the headquarters of the organization and of the authorizing responsible heads of such organization.
  - (3) The name, address and telephone number of the persons who will be responsible for conducting the proposed use of the street.
  - (4) The date and duration of time for which the requested use of the street is proposed to occur.
  - (5) An accurate description of that portion of the street proposed to be used.
  - (6) The approximate number of persons for whom use of the proposed street area is requested.
  - (7) The proposed use, described in detail, for which the street use permit is requested.

The Police Chief may approve or deny the application. If the Police Chief denies the application, the applicant may request an appeal to the Village Board.

## Village of Boyceville Municipal Code

(c) *Representative at Appeal.* The applicant must be present when the Village Board considers an appeal of a street use permit to provide any additional information reasonably necessary to make a fair determination as to whether a permit should be granted.

(d) *Denial of street use permit.* An application for a street use permit may be denied if:

- (1) The proposed street use is primarily for private or commercial gain.
- (2) The proposed street use would violate any federal or state law or any ordinance of the Village.
- (3) The proposed street use will substantially hinder the movement of police, fire, or emergency vehicles, constituting a risk to persons or property.
- (4) The application for a street use permit does not contain the information required in subsection (b) of this section.
- (5) The application requests a period for the use of the street more than five days.
- (6) The proposed use could equally be held in a public park or other location.
- (7) The Board concludes that the health, safety, and general welfare of the public cannot adequately be protected and maintained if the permit is granted.

(e) *Insurance.* The applicant for a street use permit may be required to indemnify, defend and hold the Village and its employees and agents harmless against all claims, liability, loss, damage or expense incurred by the Village on account of any injury to or death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the permit, the applicant may be required to provide a certificate of comprehensive general liability insurance and/or a performance bond prior to being granted the permit.

(f) *Termination of a street use permit.* A street use permit for an event in progress may be terminated by a Village police officer if the health, safety and welfare of the public appears to be endangered by activities generated as a result of the event or the event is in violation of any of the conditions of the permits or ordinances of the Village. The Village police officer has the authority to revoke a permit or terminate an event in progress if the event organizers fail to comply with any of the regulations in the street use policy or conditions stated in the permit.

### CHAPTER 8: NONMETALLIC MINING

#### Sec. 7-8-1. - Statutory provisions adopted.

This chapter is adopted pursuant to Wis. Stats. § 295.12, which is adopted by reference and made a part of this chapter as if fully set forth herein.

#### Sec. 7-8-2. - Definitions.

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

- (1) *Nonmetallic mining or nonmetallic mining operation* means operations or activities for the extraction from the earth for sale or use by the operator of mineral aggregates such as stone, sand and gravel, fill material and nonmetallic minerals such as asbestos, beryl, clay, feldspar, peat and talc, related operations or activities such as excavation, grading or dredging if the purpose of those operations or activities is the extraction of mineral aggregates and nonmetallic minerals and related processes such as crushing, screening, scalping, dewatering and blending.
- (2) *Nonmetallic mining refuse* means waste soil, rock, mineral, liquid, vegetation and other waste material resulting from a nonmetallic mining operation. This term does not include merchantable by-products resulting directly from or displaced by the nonmetallic mining operation.
- (3) *Nonmetallic mining site or site* means the location where a nonmetallic mining operation is proposed or conducted, including all surface areas from which materials are removed, related storage and processing areas, areas where nonmetallic mining refuse is deposited and areas disturbed by the nonmetallic mining operation by activities such as the construction or improvement of roads or haulageways.
- (4) *Operator* means any person who is engaged in a nonmetallic mining operation or nonmetallic mining site reclamation or who applies for or holds a nonmetallic mining permit issued under this nonmetallic mining reclamation chapter whether individually, jointly or through subsidiaries, agents, employees, contractors or subcontractors.
- (5) *Reclamation* means the rehabilitation of a nonmetallic mining site including, but not limited to, removal of nonmetallic mining refuse, grading of the site, replacement of topsoil, stabilization of soil conditions,

## Village of Boyceville Municipal Code

establishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution, construction of fences and, if practical, restoration of plant, fish and wildlife habitat.

- (6) *Replacement of topsoil* means the replacement of the topsoil which was removed or disturbed by a nonmetallic mining operation or the provisions of soil which is at least as adequate as the topsoil which was removed or disturbed for the purposes of providing adequate vegetative cover and stabilization of soil conditions.

### Sec. 7-8-3 Existing nonmetallic mining operations.

This nonmetallic mining reclamation chapter applies to any portion of a nonmetallic mining site, including unreclaimed portions of a site which were mined prior to the effective date of the ordinance from which this chapter is derived.

### Sec. 7-8-4. - Exempt activities.

This nonmetallic mining reclamation chapter does not apply to the following activities:

- (1) Excavations or grading by a person solely for domestic use at the residence.
- (2) Excavations or grading conducted for highway construction purposes within the highway right-of-way.
- (3) Grading conducted for farming, preparing a construction site, or restoring land following a flood or natural disaster.
- (4) Excavations for building construction purposes.
- (5) Any mining operation, the reclamation of which is required in a permit obtained under Wis. Stats. § 295.11.
- (6) Any activities conducted at a solid or hazardous waste disposal site required to prepare, operate, or close a solid waste disposal facility under Wis. Stats. § 295.11 et seq. or a hazardous waste disposal facility under Wis. Stats. § 295.11 et seq. but a nonmetallic mining reclamation ordinance may apply to activities related to solid or hazardous waste disposal conducted at a nonmetallic site separate from the solid or hazardous waste disposal facility such as activities to obtain nonmetallic minerals to be used for lining, capping, covering or constructing berms, dikes, or roads.

### Sec. 7-8-5 Permit required for nonmetallic mining.

(a) *Permit required.* No persons will operate any nonmetallic mining site or operation within the Village unless they obtain a nonmetallic mining permit from the Village. The fee for the amount provided in the Village fee schedule, plus any actual Village administrative expenses. Operators of existing nonmetallic mining operations must apply for the permit within thirty (30) days of the effective date of this chapter.

(b) *Required permit information.* An application for a nonmetallic mining permit must be submitted by the operator and must include:

- (1) An adequate description of the operation, including a legal description of the property;
- (2) A plan of the site showing the proposed and existing roads and drives, and the sources, quantity and disposition of water to be used, if any;
- (3) Estimated dates for completion of the extraction and commencement and completion dates for the reclamation;
- (4) A reclamation plan and such other information as may be necessary to determine the nature of the operation and the effect on the surrounding area;
- (5) Methods of screening from adjacent properties;
- (6) Hours of operation;
- (7) Dust and noise control;
- (8) Maximum depth;
- (9) Blasting procedures;
- (10) Location and height of stockpiles; and
- (11) Such other information the Village deems pertinent to the operation.

(c) *Reclamation plan.* The reclamation plan must contain adequate provision that:

- (1) All final slopes around the area be flatter than a three to one horizontal slope in a sand, gravel or borrow pit operation, or in a safe angle or repose in a quarrying operation;
- (2) Excavations below the grade of the nearest abutting public street or highway must be set back from the street or highway a distance not less than that required for buildings and structures in the same zoning district;

## Village of Boyceville Municipal Code

- (3) Excavations made to a water-producing depth must be not less than three feet measured from the low water mark;
- (4) All final slopes must be covered with adequate topsoil and seeded to prevent erosion;
- (5) The plan must require that, after completion of the operation, the area will be cleared of debris and left in a workmanlike condition, subject the Village's approval;
- (6) There is a timetable for completion of various stages of reclamation for the site.

(d) *Applications.* All applications for a license must be made in writing on the written form provided by the Village clerk-treasurer. All applications must be signed by the applicant and filed with the Village clerk-treasurer at least sixty (60) days prior to the licensing period. The clerk-treasurer will immediately refer all applications to the Village Board for a public hearing and decision. The operator will receive written notice of the public hearing. The license will be for a period as stated in the application or as modified by the Village Board. Modification of the application or reclamation plan may be permitted, or additional conditions may be required upon application. The board will consider the effect of the operation and the proposed reclamation upon existing and future conditions, including streets, neighboring land development, land use drainage, water supply, water pollution, air pollution, soil erosion, natural beauty, and land value of the locality. The Village Board may approve, approve conditionally, or reject the application and reclamation plan.

(e) *Financial assurance.* Before a license and reclamation plan is approved by the Village Board, the operator must submit an agreement and performance bond or cash escrow agreement to assure the following:

- (1) The operator must pay for the cost of all improvements required in the reclamation plan by the Village Board.
- (2) Guaranteed completion of the required reclamation within a period determined by the Village Board.
- (3) Payment by the operator for all costs incurred by the Village for review and inspection. This includes preparation and review of plans and specifications by the Village engineer and attorney, as well as other costs of a similar nature.
- (4) The Village may elect to have stages of the reclamation plan performed under the terms of a cash escrow agreement.
- (5) The required performance bond or cash escrow agreement must be equal to 1¼ times the Village engineer's estimated cost of the required improvements.
- (6) If the required reclamation is not complete within the designated period, all amounts held under the escrow agreement or performance bond will be turned over and delivered to the Village and applied to the cost of the required reclamation. Any balance remaining after such reclamation is done will be returned to the operator. The Village Board may extend the bond period.

(f) *Fences.* Prior to reclamation, nonmetallic mining sites abutting areas zoned residential must be enclosed by a security fence of at least four feet high. Fence gates must be secured when the site is unattended to prevent uncontrolled access by children to the site.

(g) *Inspection.* An authorized agent of the Village may enter the premises of a nonmetallic mining operation in the performance of official duties by permission of the property owner or operator or pursuant to a special inspection warrant issued under Wis. Stats. § 66.0119 to inspect those premises and to ensure compliance with this chapter.

(h) *Prohibitions and orders.* Nonmetallic mining operations within the Village are prohibited if the nonmetallic mining site cannot regain compliance with the standards of this chapter or if other requirements of this chapter are not met.

### **Sec. 7-8-6. - Permit revocation.**

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

### **Sec. 7-8-7. - Blasting and/or rock crushing.**

(a) *Definitions.* The following words, terms, and phrases, when used in this section, have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

## Village of Boyceville Municipal Code

*Blasting* means a method of loosening, moving, or shattering masses of solid matter by use of explosive compounds to prepare stone for crushing, to prepare stone for building and/or ornamental use, or to prepare property for development.

*Person* means any individual, partner, corporation, company, trustee or association, together with the respective servants, agents and employees thereof.

*Rock crusher* means any device, machine, apparatus, or equipment used either individually or in conjunction with any other device, machine, apparatus, or equipment for the purpose of crushing, grinding, breaking or pulverizing rock or stone.

(b) *Operation*. No person within the Village may operate a rock crusher or perform blasting in such a manner so that any dust, dirt, or vibration from such operation may damage or injure any person or property. All blasting must be performed according to the requirements of Wis. Admin. Code ch. Comm 7, explosives and fireworks.

(c) *Permit*.

- (1) *Required*. No person within the Village may operate a rock crusher or perform blasting who does not have a permit from the Village.
- (2) *Applications*. All applications for permits hereunder must be made in writing upon the written form provided by the Village clerk-treasurer. All applications must be signed by the applicant and filed with the Village clerk-treasurer at least 60 days prior to the licensing period. The Village clerk-treasurer will immediately refer all applications for permits to the Village engineer. The Village clerk-treasurer will issue a permit only if Village engineer recommends issuance, the permit fee is paid, and plan of operation, if required, is submitted, and approved by the Village engineer.
- (3) *Payment*. Each application for a permit must include payment, made payable to the Village, for the permit fee or a renewal thereof.
- (4) *Plan of operation*. Each application to permit a rock crusher hereunder or renewal thereof must be accompanied by a plan of operation including methods of screening from adjacent properties, hours of operation, hours of blasting and operation of rock crusher, dust and noise control, blasting procedures, location and height of stock piles, whether a rock crusher will be needed and how often, water supply, drainage course, maximum depth, legal description of property in question and other information the Village engineer deems pertinent to the proposed operation. The plan of reorganization must be approved by the Village engineer.
- (5) *Certificate of insurance*. Each application for a blasting permit must be accompanied by a certificate of insurance identifying the Village as a party insured in the amount of \$500,000.00 for damage to property, \$500,000.00 for injury to one person, and \$1,000,000.00 for injury to more than one person caused by the blasting.

(d) *Renewals*. All requests for renewals of permits must be made at least 60 days prior to the expiration date of the permit and comply with all requirements of subsection (c) above.

(e) *Blasting procedures and controls*.

- (1) *Energy ratio*. The allowable vibration of any blast at the nearest occupied or used building off the subject premises must not exceed an energy ratio of 0.5 or resultant particle velocity of 1.35 inches per second based on the following formula:  $\text{Energy ratio} = 0.5 = 10.823 f^2 A^2$  where:  $f$  = frequency in cycles per second,  $A$  = amplitude or displacement in inches.  $\text{Energy ratio} = .274 V^2$  ( $V$  = resultant particles velocity expressed in inches per second).
- (2) *Measurement of blasts*. The operator of the quarry operation, when requested to do so by the Village engineer, must measure and submit data to substantiate compliance with the formula in subsection (e)(1) of this section and the operator of the quarry operation, when requested to do so by the Village engineer, must measure air blast. This verification must be performed by a seismological engineering firm acceptable to the Village or by the Village engineer. Instrumentation must be by seismograph like VME Seismology Model "B" and approved seismograph sound measuring equipment or approved equivalents. All expenses for these tests must be paid by the quarry operator.
- (3) *Blasting log*. A log in duplicate must be kept of each blast on forms like the one on file with the Village clerk-treasurer. The original copy of this blasting log must be filed with the clerk-treasurer within 48 hours after the blast, and a copy must be kept on file at the quarry office.



## Village of Boyceville Municipal Code

(4) *Cover material.* Operators of quarries for building and/or ornamental stone removal must cover Primacord, other detonating cord or surface-laid blasting devices with at least one foot of dirt or other suitable cover material.

(f) *Permit fee.* The permit fee for any permit issued pursuant to this section is as set forth in the Village fee schedule. Permit fees will not be prorated. All permits issued expire on December 31 following the date of issue.

(g) *Penalty.* Any person who violates any of the provisions of this section is subject to a penalty as provided in section 1-1-6. However, upon conviction for the violation of any of the provisions of this section by the permittee, and in addition to the forfeiture provided, the permit may be cancelled, revoked, rescinded, or terminated.

(h) *Enforcement.* Before renewal of any license issued under this section is refused or any license is revoked, cancelled, rescinded or terminated, the licensees must be given written notice of any charges or violations against them or the reasons proposed for nonrenewal or revocation and will have an opportunity to be heard before the Village Board.

### CHAPTER 9: COIN OPERATED MACHINES

#### Sec. 7-9-1 License required.

(a) No person shall possess any coin operated machine within the Village without obtaining a permit from the Village. The fees for such machines shall be subject to the fee schedule. Licenses shall expire each June 30<sup>th</sup>.

### CHAPTER 10: LICENSEES TO PAY LOCAL CLAIMS; APPELLATE PROCEDURES

#### Sec. 7-10-1 Licensees required to pay local taxes, assessments, and claims.

(a) *Nonpayment of taxes or forfeitures.* The Village will not issue or renew any license to transact any business within the Village:

(1) For any purposes for which taxes, assessments or other claims of the Village are delinquent and unpaid.

(2) For any person who is delinquent in payment:

- a. Of any taxes, assessments, license fees, utility charges, or other claims owed the Village; or
- b. Of any forfeiture resulting from a violation of any Village ordinance.

(b) *Applicability.* This section applies to licenses issued pursuant to the provisions of this title, except chapters 1 and 5.

(c) *Denial of renewal.* An application for renewal of a license subject to this chapter will be denied pursuant to the provisions of subsection (a) of this section only following notice and opportunity for hearing as provided by subsection (d) of this section.

(d) *Hearing.* Prior to any denial of an application for renewal of a license, including denials pursuant to subsection (a) of this section, the applicant must be given notice and opportunity for a hearing as hereinafter provided:

(1) With respect to licenses renewable under chapter 2 of this title, notice and opportunity for hearing will be as provided by Wis. Stats. § 125.12.

(2) With respect to licenses other than those described in subsection (a) of this section, the Village Board must notify the applicant in writing of the Village's intention not to renew the license and must provide the applicant with an opportunity for hearing. The notice must state the reasons for the intended action and establish a date, not less than three days or more than ten days after the date of the notice on which the applicant must appear before the Village Board. If the applicant fails to appear before the board on the date indicated on the notice, the board may deny the application for renewal. If the applicant appears before the board on the date indicated in the notice and denies that the reasons for nonrenewal exist, the Village Board must conduct a hearing with respect to the matter. At the hearing, both the Village and the applicant may produce witnesses, cross examine witnesses, and be represented by counsel. The applicant will, upon request, be provided a written transcript of the hearing at the applicant's expense. If the Village Board determines the applicant is not be entitled to renewal pursuant to subsection (a) of this section, the application for renewal will be denied.

## Village of Boyceville Municipal Code

(e) *Other grounds for hearing.* Where a person wants to appeal the decision to not issue a license or permit on grounds other than those in subsections (a) through (d) above, the applicant may file a written request with the Village clerk-treasurer to refer the matter to the Village Board. A public hearing will be scheduled within 14 calendar days. Parties may be represented by counsel. The Board will consider all relevant information and render a binding decision.