

CHAPTER 10

LICENSE AND PERMIT ORDINANCE10.01 GENERAL LICENSE AND PERMIT ORDINANCE

(1) TITLE/PURPOSE. This ordinance is entitled the "Village of New Auburn General License and Permit Ordinance". The purpose of this ordinance is to regulate activities in the Village of New Auburn which, in the public interest, should be conducted on a permit basis.

(2) GENERAL PROVISIONS.

(A) Fees/Penalties. The Village Board has, by this ordinance, required and confirmed the following licenses or permits and the Village Board has established the fees to be paid by any person to the Village for the noted licenses, or noted permits, as set forth in Appendix E Schedule of Fees, and the penalties to be paid by any person to the Village for violations of these ordinances and the violations of the license and permit conditions for penalties of these ordinances and/or the specific ordinance as set forth in Appendix A, Penalty and Deposit Schedule.

(B) General License and Permit Ordinance Provisions

(1) The terms "license" and "permit" may be used in these Village ordinances and by the Village of New Auburn, its officers, its employees and its agents interchangeably.

(2) No person shall engage or allow on land owned, used or leased by that person in the Village of New Auburn any particular use, activity, business or operation until that person has obtained the required license or permit as established by the Village in this ordinance.

(3) The application for the license or permit shall be in writing to the Village of New Auburn. The application shall be filed with the Village Clerk. The Village Clerk shall prepare and shall then forward, when available and when approved by the Village Board, the appropriate written application form to the applicant. The application form for licenses or permits from the Village shall contain the appropriate requests for relevant information as may be required by State or Federal statute, as required by any Village of New Auburn ordinance or as otherwise required by order of the Village Board. The Village Clerk shall cooperate fully with the Village Board in the preparation of the application forms. The Village Board shall

approve the form and content of the application form. All application fees are to be paid to the Village Clerk upon submittal of the completed application form by the applicant or the agent of the applicant.

(4) The applications shall, at minimum, contain:

(a) The name, address and business telephone number of the applicant, if available. In addition, if a partnership, the name, address and business telephone number of every partner. If a corporation, the name, address and business telephone number of at least one officer of a corporation.

(b) The age and state or national residence of the applicant. In addition, if a partnership, the age and state or national residence of every partner. If a corporation, the age and state or national residence of every officer of the corporation.

(c) If a corporation, the state of incorporation. If not the State of Wisconsin, proof of authorization from the State of Wisconsin to do business in the State of Wisconsin.

(d) If a corporation, the name, address and business telephone number of registered corporate agent. The application shall be subscribed and sworn to by the applicant, if a natural person; by a general partner if a partnership; by a principal officer, if a corporation.

(5) All application fees are to be made payable to the Village Treasurer. The application for license or permit, when submitted to the Village Clerk by the applicant, shall contain the appropriate fee amount attached. If the license or permit is issued, a receipt for payment of the license or permit fee shall be issued by the Village Clerk. If the license or permit is not issued, then the fee amount shall be returned with the written denial letter by the Village Clerk. No refunds, unless expressly noted in any Village of New Auburn ordinance or by order of the Village Board shall be refunded by the Village Treasurer unless the license, registration or permit is denied by the Village Board.

(6) Unless expressly provided herein by this ordinance, by other Village of New Auburn ordinance provisions or as specifically noted below, all licenses and permits shall be issued by the Village Clerk upon approval by the Village Board.

(7) The following specific licenses and permits may be issued by the Village Clerk without formal Village Board approval if the application is

completed and submitted to the Village Clerk, the Village Board does not desire to formally approve or deny the license or permit, and if the proper application fee amount is attached.

(a) Cigarette License under Section 10.02.

(b) Provisional Operators Licenses under Section 10.07(8).

(c) List Others: _____

(8) Unless expressly provided herein or by other Village ordinance provisions, all licenses and permits shall be issued to commence on July 1 and expire on the next June 30 in the fiscal year of issuance or upon the date specifically noted in the license, registration or permit and in either case the license or permit expires after midnight on the last effective date.

(9) The license or permit shall be issued to the applicant by the Village Clerk. If the license, registration or permit is for a particular premises, a particular use, a particular activity, a particular business or a particular operation, the particular use, activity, business or operation shall be clearly described in the license or permit. No license or permit is transferrable, unless specifically provided herein or by other Village ordinance provisions, to another person without consent of the Village Board. If specific conditions are established in the license or permit by the Village Board, those conditions shall be expressly noted in writing on the license or permit and shall be accepted by the applicant by signature prior to issue by the Village Clerk of the license or permit and prior to approval by the Village Board.

(10) The Village Clerk shall keep a record of the licenses and permits issued by him or her and the amount of the fees collected for each license or permit.

(11) The license or permit must be dated and signed by the Village Clerk if required by the Village Board and by such other person, if any, as the Village Board shall direct for the particular license. The license or permit shall contain the date of issuance and the date of expiration. The license or permit must be exhibited for public view in a conspicuous location by the applicant on the premises

or in the vehicle, wherever the licensed or permitted use, activity, business or operation will occur.

(12) Prior to the issuance by the Village Clerk of any license or permit, the applicant must agree that he, she, or it will fully comply with any and all conditions established with the issuance of the license or permit and he, she, or it will comply with all applicable Village ordinances. Moreover, the applicant further agrees to obey all reasonable orders and reasonable directives of any Village Marshal or Law Enforcement Officer related to the compliance with applicable ordinances and compliance with conditions in the licenses or permits. Failure to fully comply with the conditions of the license or permit or failure to fully comply with these Village of New Auburn ordinances will allow the Village Board to suspend or revoke the license or permit and to take whatever other necessary legal action may be provided by these ordinances and State and Federal law. Any suspension or revocation of any license or permit will be after hearing, unless emergency conditions require immediate and temporary suspension by the Village Board. Following any temporary suspension, written notice of same shall be served on or mailed to the last known address of the licensee or permittee. Such notice shall include a statement that the party may make a written request for a hearing before the Village Board within thirty (30) days, by mailing or delivering to the Village Clerk a request for hearing.

(13) Unless expressly provided herein or by other Village of New Auburn ordinance provisions, all applications for reissuance and renewal of any Village license or Village permit will be filed by the licensee or permittee with the Village Clerk within sixty (60) days before the expiration date of the previous license or permit. The Village Board may waive this sixty (60)-day provision at its sole discretion.

(14) Unless expressly provided herein or by other Village ordinance provisions, the person, once issued the license or permit by the Village Clerk and upon acceptance of the license or permit by that person and the acceptance by that person of the conditions attached thereto, consents to the entry of the Village Board or any designee of the Village Board upon the licensed or permitted premises at reasonable hours, upon hours noted within this ordinance, or upon hours noted by the license or permit, for regulatory inspection. Further, the person consents to allow the Village Board or any designee to remove from the premises and to introduce into evidence in court for violations of this chapter, all relevant items and relevant products found therein by the Village Board or its designee. The person issued a license or permit shall comply with all applicable Federal and State laws, applicable Federal and State regulations, and applicable Village of New Auburn ordinances.

(15) Unless expressly provided herein or by other Village ordinance provisions, any license or permit may be suspended or revoked for cause after the proper Village of New Auburn hearing noted below, unless in an emergency condition determined by the Village Board wherein the license or permit can be suspended temporarily for a set time period. Prior to any action for suspension or revocation, the Village Board must, by the Village Clerk, receive a certified complaint concerning the licensee or permittee. The following persons may file a certified complaint with the Village Board:

- (a) The Village President
- (b) The Village Clerk
- (c) The Village Trustees
- (d) The Village Treasurer
- (e) The Village Marshal
- (f) Any Village of New Auburn resident
- (g) Other Law Enforcement Officials

(16) The person subject to charges for violation of any Village ordinance or any violation of a condition of any license or permit shall be provided a copy of the verified complaint and notice of hearing before the Village Board. The hearing shall be required to be not less than fifteen (15) days nor more than forty-five (45) days after receipt of notice unless stipulated in writing by the Village Board and the person subject to charges. All alcohol license hearings, pursuant to Section 125.12, (1993-1994) Wisconsin Statutes, must be held not less than three (3) days and not more than ten (10) days from the date of issuance of a summons.

(17) The person subject to charges for violation of any Village of New Auburn ordinance or any violation of a condition of any license or permit shall be entitled to the following:

- (a) Representation by legal counsel.
- (b) Right to present and cross examine witnesses.
- (c) Right to subpoena witnesses by the Village President

issuing subpoenas to compel attendance of witnesses.

(18) The Village Board may, after the hearing for any person previously issued a license, registration or permit by the Village Board act as follows:

- (a) Revoke the license or permit as a final decision.
- (b) Suspend the license or permit for a date certain as a final decision.
- (c) Request additional information as an interim decision prior to taking future action.
- (d) Take no action on the license or permit as a final decision.

(19) The final decision of the Village Board to revoke or suspend a license or permit shall be subject to appeal as provided by State law.

(20) The Village President of the Village of New Auburn or the Clerk of the Village of New Auburn, by order of the Village Board, shall repossess any license or permit that has been revoked or suspended by the Village Board.

(21) If no hearing is requested by the person subject to charge within the time herein noted, the license or permit shall be revoked at the discretion of the Village Board at its next or subsequent meeting.

(22) Specific reasons that may be considered, at minimum, by the Village Board in determining whether to initially issue or not issue a license or permit are as follows:

(a) A false statement was made by the applicant in the application filed with the Village of New Auburn and/or a false statement was included in the material attached to the application by the applicant.

(b) The applicant was not of a good moral character.

(c) The applicant was not a citizen of the United States of America or was not a legal alien.

(d) The use, activity, business or operation as proposed by the applicant in the application filed with the Village of New Auburn in the material attached to the application will be detrimental to the peace, health, safety and general welfare of the public in the Village of New Auburn.

(e) The use, activity, business or operation as proposed by the applicant in the application filed with the Village and in the material attached to the application will likely cause a public nuisance in the Village.

(f) The use, activity, business or operation as proposed by the applicant in the application and the material attached to the application will not likely conform or meet the conditions of this ordinance or any specific State or Federal law or regulations.

(g) The applicant, if a corporation, was not authorized to do business in the State of Wisconsin.

(h) The applicant was not of age.

(i) The applicant was not legally competent.

(j) The applicant did not meet the specific conditions for issuance of a specific license or permit.

(k) (List Others) _____

(23) Specific reasons that may be considered, at minimum, by the Village Board in determining whether to revoke or suspend a previously issued license or permit are as follows:

(a) A false statement was made by the applicant in the application filed with the Village and/or a false statement was included in the material attached to the application by the applicant.

(b) The applicant was not of a good moral character.

(c) The applicant was not a citizen of the United States of America or was not a legal alien.

(d) The current or former uses, activities, businesses or operations as operated or maintained by the operator is detrimental to the peace, health, safety and general welfare of the public in the Village.

(e) The current or former uses, activities, business or operations as operated or maintained by the applicant have or do cause a public nuisance in the Village.

(f) The current or former uses, activities, businesses or operations as operated or maintained by the applicant have or do not conform to or meet the conditions of this ordinance or any specific State or Federal law or regulations.

(g) The applicant, if a corporation, has not been or is not authorized to do business in the State of Wisconsin.

(h) The applicant has not been or is not of age.

(i) The applicant is not legally competent.

(j) The applicant has not or does not meet the specific conditions included in the previously issued license or permit.

(k) The applicant failed to operate or maintain the uses, activities, businesses or operations as set forth in the application or in the material attached to the application by the applicant.

(l) For alcohol beverages, revocations, suspensions, refusals to issue or renew, refer to Section 125.12, Wisconsin Statutes, for specific listing of procedures and reasons relating to alcohol beverage licenses.

(24) Any licenses or permits issued by the Village of New Auburn are to be deemed non-exclusive unless otherwise so stated. No special privileges, franchises, or agreements are intended or to be inferred by the issuance of any license or permit by the Village other than those specifically prescribed privileges noted in the license or permit. Any license, registration or permit issued by the Village shall not be issued for the purpose of any restraint of trade or commerce nor issued for the purpose of establishing any type or form of monopoly. No Village official, employee

or agent shall refuse to issue or reissue a license or permit because of the belief of the Village official, employee or agent that there are sufficient licenses or permits in the Village unless the State law or Village Board has established a quota or fixed amount of licenses or permits. However, with alcohol licenses, the Village Board has specific authority to determine a quota level or to refuse to issue a license in the best interest of the Village's health and welfare. In each case where a license or permit is refused, the Village Board shall do so based upon rational reasons which shall be conveyed by the Village Clerk to the applicant. The Village Board may, for the following licenses or permits, require an annual performance review to determine if the Village will, upon application, reissue the license or permit. This review will be held at least thirty (30) days prior to the expiration date for the license or permit. The review will be completed under the supervision of the Village President. The results of the review will be forwarded in writing to the applicant within ten (10) days of expiration. The following licenses and permits will require a performance review:

(a) Cable TV Permit. Cable TV permits will require performance review as required by State and Federal law and these ordinances.

(b) (List Others)

(25) The applicant, upon acceptance of the written license or permit, acknowledges that he or she has not been induced by any promise or statement, whether verbal or written, made by any Village official, employee, or agent concerning the license or permit of any written conditions attached to and made part of the license or permit. If any applicant, upon receipt of the license or permit, has any questions or concerns regarding the license or permit, the applicant is urged, in a timely manner, to contact the Village Clerk.

(26) The Village Clerk, upon receipt of any application for any license, registration or permit, shall, if he or she has reason to believe the person is not eligible for the license or permit, is not fit for a license or permit, or the premises are not suitable for the uses, activities, businesses, or operations contemplated by the applicant, refer the matter to the Village of New Auburn, Village Marshal, or other Law Enforcement Officer for investigation or inspection. If, as a result of the investigation, the Village Clerk believes the license or permit should be denied or delayed, he or she shall forward these recommendations to the Village Board. The investigation report

shall be in writing and shall be filed with the Village Clerk.

(27) Any license or permit issued or reissued by this ordinance may be revoked for cause by the Village Board. Any licensee or permittee whose license or permit is revoked may apply for a public hearing within ten (10) days of revocation. The licensee or permittee shall be entitled to be represented by legal counsel. After hearing, the Village Board may confirm the previous revocation, reverse the revocation action, modify the revocation action or suspend for a date certain the license or permit. The determination by the Village Board after the hearing shall be final.

(28) All applications for licenses or permits shall be in writing unless otherwise noted in the specific license or permit section. The Village Clerk shall prepare application forms as soon as practicable after any new license or permit ordinance has been enacted by the Village of New Auburn. The applicant, unless otherwise noted by the specific license or permit section, shall submit the application form as developed and provided by the Village to the Village Clerk. Upon application, unless otherwise noted in the specific license or permit section, all licenses and permits shall be issued, reissued or referred for issuance by the Village Board within thirty (30) days of the Village Clerk receiving a copy of a fully completed application form. All licenses and permits when issued or reissued by the Village Clerk shall have the signature of the Village Clerk.

(29) No license or permit shall be issued or reissued for any use, activity, business or operation if the use, activity, business or operation would be a nuisance in fact or if the use, activity, business or operation would violate any Federal laws or regulations or any State laws or regulations.

(30) The Village Board may, subject to the limitations of Section 111.335, (1993-1994) Wisconsin Statutes, consider any criminal convictions for violation of Federal and State laws, Federal and State regulations or County of Chippewa and/or Barron or Village of New Auburn ordinances in its determination to issue, reissue, suspend or revoke any license or permit. Specifically, criminal convictions, pursuant to Section 111.335, (1993-1994) Wisconsin Statutes, shall be sufficient grounds for failure to issue or reissue a license or permit or sufficient grounds for revocation or suspension of a license or permit.

(31) The Village Board shall, prior to revoking or suspending any license or permit or prior to refusing to issue or reissue a license or permit, make on the record specific written findings as to the reason or reasons the Village Board took such action. Any applicant, licensee, or permittee shall be provided the opportunity

for a public hearing (or a private hearing if circumstances under the open meeting law so allow and are advisable), an opportunity to cross examine witnesses, present evidence and to require that witnesses testify under oath. The Village Board, in lieu of revoking a license or permit, may suspend the license or permit to a date certain not to exceed sixty (60) days. The Village Board, in lieu of refusing to issue or reissue a license or permit, may delay determination action pending further investigation upon its own motion for sixty (60) days beyond the original required determination date.

(32) The following license and permit applications for issuance or reissuance of a license or permit be published with a Class 1 notice:

(List and Describe)

(33) Class A and B alcohol license applications, pursuant to Section 125.04, (1993-1994) Wisconsin Statutes, shall be published in the general circulation newspaper weekly. If published daily, a Class 3 notice is required.

(34) Any applicant for a license or permit can request a hearing by the Village Board prior to the decision of the Village Board regarding the issuance, reissuance or denial of a license or permit application. The request for hearing shall be filed with the Village Clerk. The Village Board shall be required to provide a hearing if requested by the applicant in writing.

(35) Unpaid Forfeitures, Claims and Taxes: Right to Refuse License Or Permit.

(a) Pursuant to Sec. 66.117, Wis. Stats., Village officials may refuse to issue any license or permit to applicants who have not paid overdue forfeitures resulting from a violation of a municipal ordinance of the Village of New Auburn or of an ordinance of another municipality subject to an agreement between the municipalities as set forth in Sec. 66.117, Wis. Stats. If a permit is refused, the applicant may appeal such refusal to the Village Board.

(b) All applicants for license or permits for doing business in the Village whether such licenses are required by Village Ordinance or State Statute including liquor licenses required by Chapter 125 Wis. Stats., must have all personal

property taxes, assessments, claims and forfeitures owing to the Village paid in full before the Village Clerk may issue such license.

(c) **Procedural Requirements.** The procedural provisions of the Wisconsin Statutes 125.12(3) (as amended from time-to-time) relating to refusals to issue or renew licenses are hereby adopted as the procedure for refusal to issue or renew licenses under this section.

1. When an applicant applies for a license and such applicant has unpaid personal property taxes, claims, assessments, or forfeiture, the Village Clerk shall so inform the Village Board and may send a written notice to the applicant of the unpaid amount and of the requirements of this ordinance;

2. When notified by the Village Clerk of such unpaid amounts, the Village Board shall notify the licensee or prospective licensees of the Village's intention not to renew or issue the license and provide the licensee with an opportunity for such hearing;

3. The hearing shall be conducted as required for refusals to renew as provided in Sec. 125.12(2)(b), Wis. Stats. and judicial review shall be as provided in Section 125.12(2)(2), Wis. Stats. The issue to be determined shall be whether or not the applicant has unpaid personal property taxes, special assessments, claims or forfeitures.

(C) **Administration and Enforcement of License/Permit Violations**

(1) Unless otherwise noted by order of the Village Board, the Village Clerk shall be the officer of the Village responsible for administration of the Village of New Auburn licenses and permits.

(2) Unless otherwise noted by order of the Village Board, the Village Marshal shall be the official of the Village of New Auburn responsible to investigate matters related to licenses and permits and to file any complaints with the Village Board regarding licenses and permits.

(3) Unless otherwise noted by order of the Village Board, the Village Marshal shall be the official of the Village of New Auburn responsible to enforce the conditions established in the licenses and permits issued by the Village and to enforce the ordinances of the Village against any licensee, permittee, and other person violating these ordinances.

(4) Unless otherwise noted by order of the Village Board, the Village Clerk shall, in a timely fashion, inform the Village Board of any alleged or real violation of the conditions established in the licenses or permits issued by the Village and any alleged or real violations of Village ordinances.

(5) Unless otherwise noted by order of the Village Board, the Village Clerk shall be responsible to inform the Village Board of the refusal of any person to obtain a required license or permit.

10.02

CIGARETTE LICENSE ORDINANCE

(1) **COVERAGE**. Every person, pursuant to Section 134.65, (1993-1994) Wisconsin Statutes and this ordinance who sells in the Village of New Auburn cigarettes to a person who does not hold a Village Cigarette License or who does not hold a permit under Sections 139.30 to 139.41 or 139.79, (1993-1994) Wisconsin Statutes, shall seek and obtain a cigarette sales license from the Village of New Auburn. The fee for such license shall be, by statute, Five Dollars (\$5.00) per premises. The fees are as noted in Appendix E. The license shall be issued from July 1 of one year to June 30 of the next year. The license shall be issued by the Village Clerk prior to any person selling any cigarettes without the proper license or permit in the Village.

(2) **APPLICATION/LICENSE**. The applications and license shall designate the premises. Such licenses are not transferrable from one person to another or are not to be amended from one premises to another. The application shall include:

- (A) The name of the applicant.
- (B) The address of the applicant.
- (C) The address of the premises.
- (D) The business and residential telephone number of the applicant, if any.
- (E) The age of the applicant.