

# **TITLE 7** Licensing and Regulation – Village of Gays Mills

## **TITLE 7**

### Licensing and Regulation

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## **CHAPTER 1**

### Licensing of Dogs and Regulation of Animals

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### SEC. 7-1-1 DOG LICENSES REQUIRED; DEFINITIONS.

- (a) **License Required.** Except as provided in Section 174.054, *Wis. Stats.*, it shall be unlawful for any person in the Village of Gays Mills to own, harbor or keep any dog of more than five (5) months of age on January 1 of any year or five (5) months of age within the license year without complying with the provisions of this Chapter 1 of Title 7 of the Code of Ordinances of the Village of Gays Mills and Sections 174.05 through 174.09, *Wis. Stats.*, relating to the listing, licensing and tagging of the same.
- (b) **Definitions.** In this Chapter, unless the context or subject matter otherwise requires:
- (1) “Owner” shall include any person owning, harboring or keeping a dog or cat and, for purposes of Section 7-1-9(c), a pit bull dog. For purposes of Sections 7-1-2 and 7-1-5, “Owner” shall also mean a person who controls a dog.
  - (2) “At large” means to be off the premises of the owner and not under the control of the owner or some person either by leash or otherwise; provided, however, that a dog that is actively engaged in a legal hunting activity, including training, shall not be considered to be at large if the dog is monitored or supervised by a person and the dog is on land that is open to hunting or on land on which the person has obtained permission to hunt or to train a dog.
  - (3) “Dog” shall mean any canine, regardless of age or sex.
  - (4) “Cat” shall mean any feline, regardless of age or sex.
  - (5) “Neutered” as used herein as describing a dog or cat shall mean a dog or cat having nonfunctional reproductive organs.
  - (6) “Animal” means warm-blooded creatures, except for a human being, reptiles and amphibians.
  - (7) “Cruel” means causing unnecessary and excessive pain or suffering or unjustifiable injury or death.
  - (8) “Law Enforcement Officer” has that meaning as appears in Section 967.02(5), *Wis. Stats.*, and includes a humane officer under Section 58.07, *Wis. Stats.*, but does not include a conservation warden appointed under Section 23.10, *Wis. Stats.*
  - (9) “Farm Animal” means any warm-blooded animal normally raised on farms in the United States and used for food or fiber.
  - (10) “Pet” means an animal kept and treated as a pet.
  - (11) “Residential Lot” means a parcel zoned as residential, occupied or to be occupied by a dwelling, platted or unplatted and under common ownership. For the purpose of this Chapter, any vacant parcel or parcels adjoining a dwelling and under the same ownership shall constitute one (1) lot.
  - (12) “Untagged” means not having a valid license tag attached to a collar kept on the dog whenever the dog is outdoors unless the dog is securely confined in a fenced area.

State Law Reference: Secs. 174.042, 174.05 through 174.09, and 951.01, *Wis. Stats.*

### SEC. 7-1-2 RABIES VACCINATION REQUIRED FOR LICENSE.

- (a) **Rabies Vaccination.** Except as provided in Section 174.054, *Wis. Stats.*, the owner of a dog shall have the dog vaccinated against rabies by a veterinarian within thirty (30) days after the dog reaches four (4) months of age and revaccinated within one (1) year after the initial vaccination. If the owner obtains the dog or brings the dog into the Village of Gays Mills after the dog has reached four (4) months of age, the owner shall have the dog vaccinated against rabies within thirty (30) days after the dog is obtained or brought into the Village unless the dog has been vaccinated as evidenced by a current certificate of rabies vaccination. The owner of a dog shall have the dog revaccinated against rabies by a veterinarian before the date that immunization expires as stated on the certificate of vaccination or, if no date is specified, within three (3) years after the previous vaccination.

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- (b) **Issuance of Certificate of Rabies Vaccination.** A veterinarian who vaccinates a dog against rabies shall complete and issue to the owner a certificate of rabies vaccination bearing a serial number and in the form approved by the Wisconsin Department of Agriculture, Trade, and Consumer Protection, stating the owner's name and address, the name, sex, spayed or unspayed, neutered or unneutered, breed and color of the dog, the date of the vaccination, the type of rabies vaccination administered and the manufacturer's serial number, the date that the immunization expires as specified for that type of vaccine by the Center for Disease Control of the U.S. Department of Health and Human Services, and the village, city, or town where the dog is required to be licensed.
- (c) **Copies of Certificate.** The veterinarian shall keep a copy of each certificate of rabies vaccination in a file maintained for this purpose until the date that the immunization expires or until the dog is revaccinated, whichever occurs first.
- (d) **Rabies Vaccination Tag.** After issuing the certificate of rabies vaccination, the veterinarian shall deliver to the owner a rabies vaccination tag of durable material bearing the same serial number as the certificate, the year the vaccination was given and the name, address and telephone number of the veterinarian.
- (e) **Tag to be Attached.** The owner shall attach the rabies vaccination tag or a substitute tag to a collar and a collar with the tag attached shall be kept on the dog at all times, but this requirement does not apply to a dog during competition or training, to a dog while hunting, to a dog securely confined indoors, to a dog securely confined in a fenced area, or to a dog while actively involved in herding or controlling livestock if the dog is under the control of its owner. The substitute tag shall be of a durable material and contain the same information as the rabies vaccination tag. The requirements of this Subsection do not apply to a dog which is not required to be vaccinated under Subsection (a).
- (f) **Duplicate Tag.** The veterinarian may furnish a new rabies vaccination tag with a new serial number to an owner in place of the original tag upon presentation of the certificate of rabies vaccination. The veterinarian shall then indicate the new tag number on the certificate and keep a record in the file.
- (g) **Cost.** The owner shall pay the cost of the rabies vaccination and the cost associated with the issuance of a certificate of rabies vaccination and the delivery of a rabies vaccination tag.

State Law Reference: Sec. 95.21(2), *Wis. Stats.*

### SEC. 7-1-3 ISSUANCE OF DOG AND KENNEL LICENSES.

- (a) **Dog Licenses.**
  - (1) Except as provided in Section 174.054, *Wis. Stats.*, it shall be unlawful for any owner of any dog more than five (5) months of age in the Village of Gays Mills to not comply with the provisions of Sections 174.05 through 174.09, Wisconsin Statutes, relating to the listing, licensing and tagging of the same.
  - (2) The owner of any dog more than five (5) months of age on January 1 of any year, or five (5) months of age within the license year, shall annually or on or before the date the dog becomes five (5) months of age, pay a license tax and obtain a license.
  - (3) The minimum license tax under this Section shall be:
    - a. Neutered males and spayed females -- Three Dollars (\$3.00).
    - b. Unneutered males and unspayed females -- Eight Dollars (\$8.00).
  - (4) Upon payment of the required license tax and upon presentation of evidence that the dog is currently immunized against rabies, as required by Section 7-1-2 of this Chapter, the Village Clerk-Treasurer shall complete and issue to the owner a license for such dog containing all information required by State law. The Village Clerk-Treasurer shall also deliver to the owner, at the time of issuance of the license, a tag of durable material bearing the same serial number as the license, the name of the county in which issued and the license year.

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- (5) The owner shall securely attach the tag to a collar and the collar with the tag attached shall be kept on the dog for which the license is issued at all times, except as provided in Section 7-1-2(e).
  - (6) The fact that a dog is without a tag attached to the dog by means of a collar shall be presumptive evidence that the dog is unlicensed. Any law enforcement or humane officer shall seize, impound or restrain any dog for which a dog license is required which is found untagged.
  - (7) Notwithstanding the foregoing, every dog specifically trained to lead blind or deaf persons or to provide support for mobility-impaired persons is exempt from the dog license tax, and every person owning such a dog shall receive annually a free dog license from the Village Clerk-Treasurer upon application.
- (b) **Kennel Licenses.**
- (1) Any person who keeps or operates a kennel may, instead of the license tax for each dog required by this Chapter, apply for a kennel license for the keeping or operating of the kennel. Such person shall pay for the license year a license tax of Thirty-five Dollars (\$35.00) for a kennel of twelve (12) or fewer dogs and an additional Three Dollars (\$3.00) for each dog in excess of twelve (12). Upon payment of the required kennel license tax and, if required by the Village Board, upon presentation of evidence that all dogs over five (5) months of age are currently immunized against rabies, the Village Clerk-Treasurer shall issue the kennel license and a number of tags equal to the number of dogs authorized to be kept in the kennel. Kennels may only be located in residential areas following a public hearing and approval by the Village Board; the Board may attach conditions to such approval as a conditional use under the Village's Zoning Code.
  - (2) The owner or keeper of a kennel shall keep at all times a kennel license tag attached to the collar of each dog over five (5) months old kept by the owner or keeper under a kennel license but this requirement does not apply to a dog during competition or training, to a dog securely confined indoors, to a dog while hunting, or to a dog securely confined in a fenced area. These tags may be transferred from one dog to another within the kennel whenever any dog is removed from the kennel. The rabies vaccination tag or substitute tag shall remain attached to the dog for which it is issued at all times but this requirement does not apply to a dog during competition or training, to a dog securely confined indoors, to a dog while hunting, or to a dog securely confined in a fenced area. No dog bearing a kennel tag shall be permitted to stray or to be taken anywhere outside the limits of the kennel unless the dog is on a leash or is temporarily outside the kennel for the purposes of hunting, breeding, trial, training or competition.
  - (3) The term "kennel" means any establishment wherein or whereon dogs are kept for the purpose of breeding, sale, or sporting purposes.

State Law Reference: Secs. 174.05, 174.053, and 174.07, *Wis. Stats.*

### **SEC. 7-1-4 LATE FEES.**

The Village Clerk-Treasurer shall assess and collect a late fee of Five Dollars (\$5.00) from every owner of a dog five (5) months of age or over if the owner failed to obtain a license prior to April 1 of each year, or within thirty (30) days of acquiring ownership of a licensable dog or if the owner failed to obtain a license on or before the dog reached licensable age. Said late fee shall be charged in addition to the required license fee.

State Law Reference: Sec. 174.05(5), *Wis. Stats.*

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### SEC. 7-1-5 RABIES QUARANTINE.

- (a) **Dogs Confined.** If a district within the Village is quarantined for rabies, all dogs within that district shall be kept securely confined, tied, leashed or muzzled. Any dog not confined, tied, leashed or muzzled is declared a public nuisance and may be impounded. All officers shall cooperate in the enforcement of the quarantine. The Village Clerk-Treasurer shall promptly post in at least three (3) public places in the Village notices of quarantine furnished by the Wisconsin Department of Agriculture, Trade, and Consumer Protection for posting.
- (b) **Exemption of Vaccinated Dog from Village Quarantine.** A dog which is immunized currently against rabies, as evidenced by a valid certificate of rabies vaccination or other evidence, is exempt from the Village quarantine provisions of Subsection (a) if a rabies vaccination tag or substitute tag is attached to the dog's collar.
- (c) **Quarantine or Sacrifice of an Animal Suspected of Biting a Person or Being Infected or Exposed to Rabies.**
- (1) Quarantine or sacrifice of dog or cat. An officer shall order a dog or cat quarantined if the officer has reason to believe that the animal bit a person, is infected with rabies or has been in contact with a rabid animal. If a quarantine cannot be imposed because the dog or cat cannot be captured, the officer may kill the animal. The officer may kill the dog or cat only as a last resort or if the owner agrees. The officer shall attempt to kill the animal in a humane manner and in a manner which avoids damage to the animal's head.
  - (2) Sacrifice of other animals. An officer may order killed or may kill an animal other than a dog or cat if the officer has reason to believe that the animal bit a person or is infected with rabies.
  - (3) Sacrifice of a dog or cat. An officer may order killed or may kill a dog or cat if the owner of the dog or cat violates Subsections (d)(1), (2), or (3).
- (d) **Quarantine of Dog or Cat.**
- (1) Delivery to isolation facility or quarantine on premises of owner. An officer who orders a dog or cat to be quarantined shall deliver the animal or shall order the animal delivered to an isolation facility as soon as possible but no later than twenty-four (24) hours after the original order is issued or the officer may order the animal to be quarantined on the premises of the owner if the animal is immunized currently against rabies as evidenced by a valid certificate of rabies vaccination or other evidence.
  - (2) Health risk to humans. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal bit a person, the custodian of an isolation facility or the owner shall keep the animal under strict isolation under the supervision of a veterinarian for at least ten (10) days after the incident occurred. In this paragraph, "supervision of a veterinarian" includes, at a minimum, examination of the animal on the first day of isolation, on the last day of isolation and on one (1) intervening day. If the observation period is not extended and if the veterinarian certifies that the dog or cat has not exhibited any signs of rabies, the animal may be released from quarantine at the end of the observation period.
  - (3) Risk to animal health.
    - a. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal and if the dog or cat is not currently immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for one hundred eighty (180) days. The owner shall have the animal vaccinated against rabies between one hundred fifty-five (155) and one hundred sixty-five (165) days after the exposure to a rabid animal.
    - b. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal but if the dog or cat is immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for

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sixty (60) days. The owner shall have the animal revaccinated against rabies as soon as possible after exposure to a rabid animal.

- (4) **Destruction of a dog or cat exhibiting symptoms of rabies.** If a veterinarian determines that a dog or cat exhibits symptoms of rabies during the original or extended observation period, the veterinarian shall notify the owner and the officer who ordered the animal quarantined and the officer or veterinarian shall kill the animal in a humane manner and in a manner which avoids damage to the animal's head. If the dog or cat is suspected to have bitten a person, the veterinarian shall notify the person or the person's physician.
- (e) **Delivery of Carcass; Preparation; Examination by Laboratory of Hygiene.** An officer who kills an animal shall deliver the carcass to a veterinarian or local health department, as defined in Section 250.01(4), *Wis. Stats.* The veterinarian or local health department shall prepare the carcass, properly prepare and package the head of the animal in a manner to minimize deterioration, arrange for delivery by the most expeditious means feasible of the head of the animal to the State Laboratory of Hygiene and dispose of or arrange for the disposal of the remainder of the carcass in a manner which minimizes the risk or exposure to any rabies virus.
- (f) **Cooperation of Veterinarian.** Any practicing veterinarian who is requested to be involved in the rabies control program by an officer is encouraged to cooperate in a professional capacity with the Village, the Wisconsin Department of Agriculture, Trade, and Consumer Protection, the Laboratory of Hygiene, the local health department, as defined in Section 250.01(4), *Wis. Stats.*, the officer involved and, if the animal is suspected to have bitten a person, the person's physician.
- (g) **Responsibility for Quarantine and Laboratory Expenses.** The owner of an animal is responsible for any expenses incurred in connection with keeping the animal in an isolation facility, supervision and examination of the animal by a veterinarian, preparation of the carcass for laboratory examination and the fee for the laboratory examination.

State Law Reference: Secs. 95.21(3), (4), (5), (6), (7) and (8), *Wis. Stats.*

### SEC. 7-1-6 RESTRICTIONS ON KEEPING OF DOGS, CATS, FOWL AND OTHER ANIMALS; FARM ANIMALS.

- (a) **Restrictions.** It shall be unlawful for any person within the Village of Gays Mills to own, harbor or keep any dog or cat which has:
  - (1) Habitually pursued any vehicle upon any public street, alley or highway in the Village.
  - (2) Attacked, injured, or bitten any person or destroys property in unprovoked circumstances.
  - (3) Been at large within the limits of the Village.
  - (4) Barked or howled in violation of Section 7-1-12.
  - (5) Attacked or injured or bitten any domestic animal in unprovoked circumstances.
  - (6) Has been infected with rabies to the knowledge of such person or has been bitten by an animal known to have been infected with rabies.
  - (7) In the case of a dog, been untagged and required by State law or Village Ordinance to be licensed.
- (b) **Animals Running at Large.** No person owning, harboring or keeping any animal or fowl shall allow the same to run at large within the Village. The owner of any animal, whether licensed or unlicensed, shall keep his animal tied or enclosed in a proper enclosure so as not to allow said animal to interfere with the passing public or neighbors. Any animal running at large shall be seized and impounded by a humane or law enforcement officer.
- (c) **Animals Restricted on Public Grounds and Cemeteries.** No dog or cat shall be permitted in any public playground, school grounds, public park, or swimming area within the Village unless such dog or cat is on a leash and under control. Dogs and cats are prohibited from being in cemeteries. Every dog specially trained to lead blind or deaf persons or to provide support for mobility impaired persons shall

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be exempt from this Subsection.

- (d) **Owner's Liability for Damage Caused by Dogs; Penalties.** The provisions of Section 174.02, *Wis. Stats.*, relating to the owner's liability for damage caused by dogs and court orders to kill dogs together with the penalties set forth are hereby adopted and incorporated.

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### SEC. 7-1-7 IMPOUNDMENT OF ANIMALS.

- (a) **Animal Control Agency.**
- (1) The Village of Gays Mills may contract with or enter into an agreement with such person, persons, organization or corporation authorized by law to provide for the operation of an animal shelter, impoundment of stray animals, confinement of certain animals, disposition of impoundment animals and for assisting in the administration of rabies vaccination programs.
  - (2) The Village of Gays Mills does hereby delegate to any such animal control agency the authority to act pursuant to the provisions of this Section.
- (b) **Impounding of Animals.** In addition to any penalty hereinafter provided for a violation of this Chapter, a law enforcement or animal control officer may impound any animal in the event of a violation of this Chapter involving the animal. In order for an animal to be impounded, the impounding officer must see or hear the violation of this Section or have in his/her possession a signed statement of a complaining witness made under oath alleging the facts regarding the violation and containing an agreement to reimburse the Village for any damages it sustains for improper or illegal seizure.
- (c) **Claiming Animal; Disposal of Unclaimed Animals.** After seizure of animals under this Section by a law enforcement or animal control officer, the animal shall be impounded. The officer shall notify the owner, personally or through the U.S. Mail as soon as possible, if such owner be known to the officer or can be ascertained with reasonable effort, but if such owner be unknown or unascertainable, the officer shall post written notice in three (3) public places in the Village, giving a description of the animal, stating where it is impounded and the conditions for its release, after the officer has taken such animal into his possession. The officer shall check the lost and found column of the local daily newspapers having general circulation in the Village to determine if an animal is advertised which answers the description of the animal. If within seven (7) days after such notice the owner does not claim such animal or the animal is not released to a person other than its owner under the circumstances specified in Section 174.046(8), *Wis. Stats.*, the officer may dispose of the animal in a proper and humane manner; provided, if an animal before being impounded has bitten a person, the animal shall be retained in the Animal Shelter for at least ten (10) days for observation purposes. Within such times, the owner may reclaim the animal upon payment of any impounding fees established pursuant to law. No animal shall be released from the pound without being properly licensed if so required by State law or Village Ordinance.

State Law Reference: Sec. 174.046, *Wis. Stats.*

### SEC. 7-1-8 DUTY OF OWNER IN CASES OF DOG OR CAT BITE.

Every owner of a dog or cat who knows that such dog or cat has bitten any person shall immediately report such fact to the Village Police Department and shall keep such dog or cat confined for not less than ten (10) days or for such period of time as directed. The owner or keeper of any such dog or cat shall surrender the dog or cat to a law enforcement or humane officer upon demand for examination.

### SEC. 7-1-9 PIT BULLS AND CERTAIN WILD ANIMALS.

- (a) **Prohibition.** It shall be unlawful to possess within the corporate limits of the Village of Gays Mills:
- (1) Any live game animal or fur-bearing animal, as defined in Section 29.01 of the Wisconsin



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Statutes, and any live wild or domestic skunk.

- (2) Any animal having poisonous bites.
- (3) Any pit bull dog provided that pit bull dogs registered with the Village on the day this Section becomes effective may be kept within the Village subject to the standards and requirements set forth in Subsection (c) of this Section. “Pit bull dog” as that term is used in this Section is defined to mean:
  - a. The Staffordshire bull terrier breed of dog;
  - b. The American pit bull terrier breed of dog;
  - c. The American Staffordshire terrier breed of dog;
  - d. Any mixed breed of dog which contains as an element of its breeding the breed of Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier, or a combination of any of these breeds as to be identifiable as partially of one of these breeds.
- (b) **Exceptions.** The prohibitions of Subsection (a)(1) above shall not apply where the animals are in the care, custody or control of: A veterinarian for treatment; agricultural fairs; shows or projects of the 4-H Clubs; a display for judging purposes; an itinerant or transient carnival, circus or other show; dog or cat shows or trials; public or private educational institutions; licensed pet shops; zoological gardens; if:
  - (1) Their location conforms to the provisions of the zoning ordinance of the Village.
  - (2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.
  - (3) Animals are maintained in quarters so constructed as to prevent their escape.
  - (4) No person lives or resides within one hundred (100) feet of the quarters in which the animals are kept.

The prohibitions in Subsection (a)(1) shall also not apply to the following animals kept on properties zoned in an agricultural classification so long as such animals are securely confined: cattle, horses, ponies, swine, goats, sheep, and fowl.

- (c) **Keeping of Registered Pit Bulls.** The provisions of Subsection (a) are not applicable to owners of pit bull dogs registered with the Village of Gays Mills. Keeping, owning or harboring of such dogs is, however, subject to the following conditions:
  - (1) **Leash and Muzzle.** No person shall permit a registered pit bull dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four (4) feet in length. No person shall permit a pit bull dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all pit bull dogs on a leash outside the animal’s kennel or pen must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.
  - (2) **Confinement.** All registered pit bull dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel except when leashed and muzzled as provided in Subsection (c)(1). All pens or kennels shall comply with all zoning and building regulations of the Village and shall be kept in a clean and sanitary condition.
  - (3) **Confinement Indoors.** No pit bull dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition.
  - (4) **Signs.** All owners, keepers or harborers of registered pit bull dogs within the Village shall within ten (10) days of the effective date of this Section display in a prominent place on their premises a sign easily readable by the public using the words “Beware of Dog”. In addition, a similar sign is required to be posted on the kennel or pen of such animal.
  - (5) **Insurance.** All owners, keepers or harborers of registered pit bull dogs must within thirty (30) days of the effective date of this Section provide proof to the Clerk-Treasurer of public liability insurance in a single incident amount of Fifty Thousand Dollars (\$50,000.00) for bodily injury to or death of any person or persons or for damage to property owned by any persons which may

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- result from the ownership, keeping or maintenance of such animal. Such insurance policy shall name the Village as a co-insured solely for the purpose of notice of cancellation of the policy and shall provide that no cancellation of the policy will be made unless at least ten (10) days' written notice is first given to the Clerk-Treasurer.
- (6) Registration. All owners, keepers or harborers of pit bull dogs shall within thirty (30) days after the effective date of this Section register said dog with the Village by filing with the Clerk-Treasurer two (2) color photographs of the dog clearly showing the color and approximate size of the dog.
  - (7) Reporting Requirements. All owners, keepers or harborers of registered pit bull dogs must within ten (10) days of any of the following incidents, report the following information in writing to the Clerk-Treasurer:
    - a. The removal from the Village or death of a registered pit bull;
    - b. The birth of offspring of a registered pit bull dog;
    - c. The new address of a registered pit bull dog should the dog be moved within the Village of Gays Mills.
    - d. If the registered pit bull dog is sold, the name and address of the new owner.
  - (8) Animals Born of Registered Dogs. All offspring born of pit bull dogs registered within the Village must be removed from the Village within six (6) weeks after the birth of said animal.
  - (9) Failure to Comply. It shall be unlawful for the owner of a pit bull dog registered with the Village to fail to comply with the requirements and conditions set forth in this Subsection (c).

State Law Reference: Secs. 29.425 and 29.427, *Wis. Stats.*

### SEC. 7-1-10 ANIMAL FECES.

- (a) **Removal of Fecal Matter.** The owner or person in charge of any dog, cat, horse, or other animal shall not permit solid fecal matter of such animal to be deposited on any street, alley or other public or private property, unless such matter is immediately removed by said owner or person in charge. This Subsection shall not apply to a person who is visually or physically handicapped.
- (b) **Accumulation of Fecal Matter Prohibited on Private Yards.** The owner or person in charge of the dog or cat must also prevent accumulation of animal waste on his/her own property by regularly patrolling and properly disposing of the fecal matter.

### SEC. 7-1-11 INJURY TO PROPERTY BY ANIMALS.

It shall be unlawful for any person owning or possessing an animal, dog or cat to permit such animal, dog or cat to go upon any parkway or private lands or premises without the permission of the owner of such premises and break, bruise, tear up, crush or injure any lawn, flower bed, plant, shrub, tree, garden or other property in any manner whatsoever.

### SEC. 7-1-12 BARKING DOGS OR CRYING CATS.

It shall be unlawful for any person to own, keep, control, or harbor any dog which barks, howls or yelps or any cat which cries or howls (collectively the "Noise") such that the Noise tends to unreasonably disturb the peace and quiet of the neighborhood in which it occurs unless the making and continuing of the Noise cannot be prevented and is necessary for the protection or preservation of property or of the health, safety, life, or limb of some person. Such Noise is hereby declared to be a public nuisance.

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### SEC. 7-1-13 PROVIDING PROPER FOOD AND DRINK TO CONFINED ANIMALS.

- (a) **Duty.** No person owning or responsible for confining or impounding any animal may refuse or neglect to supply the animal with a sufficient supply of food and water as prescribed in this Section.
- (b) **Food.** The food shall be sufficient to maintain all animals in good health.
- (c) **Water.** If potable water is not accessible to the animals at all times, it shall be provided daily and in sufficient quantity for the health of the animal.

State Law Reference: Sec. 951.13, *Wis. Stats.*

### SEC. 7-1-14 PROVIDING PROPER SHELTER.

- (a) **Proper Shelter.** No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter as prescribed in this Section. In the case of farm animals, nothing in this Section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices in the particular county where the animal or shelter is located.
- (b) **Indoor Standards.** Minimum indoor standards of shelter shall include:
  - (1) Ambient temperatures. The ambient temperature shall be compatible with the health of the animal.
  - (2) Ventilation. Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.
- (c) **Outdoor Standards.** Minimum outdoor standards of shelter shall include:
  - (1) Shelter from sunlight. When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this Subsection, “caged” does not include farm fencing used to confine farm animals.
  - (2) Shelter from inclement weather.
    - a. Animals generally: Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.
    - b. Dogs: If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size to accommodate the dog shall be provided.
- (d) **Space Standards.** Minimum space requirements for both indoor and outdoor enclosures shall include:
  - (1) Structural strength. The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.
  - (2) Space requirements. Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.
- (e) **Sanitation Standards.** Minimum standards of sanitation for both indoor and outdoor enclosures shall include periodic cleaning to remove excreta and other waste materials, dirt and trash so as to minimize health hazards.

State Law Reference: Sec. 951.14, *Wis. Stats.*

## TITLE 7 Licensing and Regulation – Village of Gays Mills

### SEC. 7-1-15 MISTREATING ANIMALS AND NEGLECTED OR ABANDONED ANIMALS.

- (a) **Mistreating Animals.** No person may treat any animal, whether belonging to the person or another, in a cruel manner, as defined in Section 951.01(2), *Wis. Stats.* This Subsection does not prohibit bona fide experiments carried on for scientific research or normal and accepted veterinary practices.
- (b) **Neglected or Abandoned Animals.**
- (1) No person may abandon any animal.
  - (2) Any law enforcement or animal control officer may remove, shelter and care for an animal found to be cruelly exposed to the weather, starved or denied adequate water, neglected, abandoned or otherwise treated in a cruel manner, as defined in Section 951.01(2), *Wis. Stats.*, and may deliver such animal to another person to be sheltered, cared for and given medical attention, if necessary. In all cases the owner, if known, shall be immediately notified and such officer, or other person, having possession of the animal shall have a lien thereon for its care, keeping and medical attention and the expense of notice.
  - (3) If the owner or custodian is unknown and cannot, with reasonable effort, be ascertained or does not, within five (5) days after notice, redeem the animal by paying the expenses incurred, it may be treated as a stray and dealt with as such.
  - (4) Whenever, in the opinion of any such officer, an animal is hopelessly injured or diseased so as to be beyond the probability of recovery, it shall be lawful for such officer to kill such animal and the owner thereof shall not recover damages for the killing of such animal unless he shall prove that such killing was unwarranted.
- (c) **Injured Animals.** No person who owns, harbors or keeps any animal shall fail to provide proper medical attention to such animal when and if such animal becomes sick or injured. In the event the owner of such animal cannot be located, the Village or any animal control agency with whom the Village has an agreement or contract shall have the authority to take custody of such animal for the purpose of providing medical treatment, and the owner thereof shall reimburse the person or organization for the costs of such treatment.
- (d) **Incorporated Statutes.** Section 951.025, *Wis. Stats.* (Decompression Prohibited), Section 951.03, *Wis. Stats.* (Dognapping and Catnapping), Section 951.04, *Wis. Stats.* (Leading Animal from Motor Vehicle), Section 951.05, *Wis. Stats.* (Transportation of Animals), Section 951.06, *Wis. Stats.* (Use of Poisonous and Controlled Substances), Section 951.07, *Wis. Stats.* (Use of Certain Devices Prohibited), Section 951.08, *Wis. Stats.* (Instigating Fights Between Animals), Section 951.09, *Wis. Stats.* (Shooting at Caged or Staked Animals), Section 951.095, *Wis. Stats.* (Harassment of Police Animals), Section 951.10, *Wis. Stats.* (Sale of Baby Rabbits, Chicks and Other Fowl), Section 951.11, *Wis. Stats.* (Artificially Colored Animals; Sale), Section 951.16, *Wis. Stats.* (Investigation of Cruelty Complaints), Section 951.162, *Wis. Stats.* (Reports of Animal Fighting), Section 951.165, *Wis. Stats.* (Animal Fighting; Seizure), and Section 951.17, *Wis. Stats.* (Reimbursement for Expenses), are hereby adopted by reference and made a part of this Chapter. Any act required to be performed or prohibited by such incorporated statutes is required or prohibited by this Section. Any existing or future amendments, revisions, or modifications of such incorporated statutes are also incorporated herein. Any person who shall within the Village of Gays Mills, Wisconsin, violate any provision of such incorporated statutes shall be deemed to have violated this Section.

State Law Reference: Secs. 951.02, 951.15, 951.16 and 951.17, *Wis. Stats.*

## TITLE 7 Licensing and Regulation – Village of Gays Mills

### SEC. 7-1-16 LIMITATION ON NUMBER OF DOGS AND CATS.

- (a) **Purpose.** The keeping of a large number of dogs and cats within the Village of Gays Mills for a considerable period of time detracts from and, in many instances, is detrimental to, healthful and comfortable life in such areas. The keeping of a large number of dogs and cats is, therefore, declared a public nuisance.
- (b) **Number Limited.** No person or family shall own, harbor or keep in his/her or its possession a total of more than two (2) dogs or two (2) cats, or a total of four (4) dogs and cats, in any residential unit without the prior issuance of a kennel license by the Village Board except that a litter of pups or kittens or a portion of a litter may be kept for not more than ten (10) weeks from birth.

### SEC. 7-1-17 PENALTIES.

- (a) **Sections 7-1-13, 7-1-14, 7-1-15, and 7-1-16.** Any person violating Sections 7-1-13, 7-1-14, 7-1-15, or 7-1-16 shall be subject to a forfeiture of not less than One Hundred Dollars (\$100.00) and not more than Two Hundred Dollars (\$200.00), plus any and all applicable costs, assessments, and surcharges. This Section shall also permit the Village Attorney to apply to the court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating any aspect of this Chapter.
- (b) **Sections 7-1-1, 7-1-2, 7-1-3, and 7-1-5.**
  - (1) Anyone who violates Sections 7-1-1 and 7-1-3 of this Code of Ordinances shall be subject to a forfeiture of not more than Two Hundred Fifty Dollars (\$250.00) for the first offense and not more than Five Hundred Dollars (\$500.00) for any subsequent offenses, plus any and all applicable costs, assessments, and surcharges.
  - (2) Anyone who violates Section 7-1-2 shall be subject to a forfeiture of not less than Fifty Dollars (\$50.00) nor more than One Hundred Dollars (\$100.00), plus any and all applicable costs, assessments, and surcharges.
  - (3) An owner who refuses to comply with an order issued under Section 7-1-5 to deliver an animal to an officer, isolation facility or veterinarian or who does not comply with the conditions of an order that an animal be quarantined shall be fined not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00), plus any and all applicable costs, assessments, and surcharges.
- (c) **Section 7-1-6 and 7-1-8 through 7-1-12.** Any person who violates Sections 7-1-6 and 7-1-8 through 7-1-12 of this Code of Ordinances shall be subject to a forfeiture of not less than Twenty-five Dollars (\$25.00) and not more than One Hundred Dollars (\$100.00) for the first violation and not less than Fifty Dollars (\$50.00) and not more than Two Hundred Dollars (\$200.00) for subsequent violations, plus any and all applicable costs, assessments, and surcharges; provided, however, that the penalties and remedies for a violation of Section 7-1-6(e) shall be those specified in Section 174.02, *Wis. Stats.*
- (d) **Separate Violation/Impoundment/Expenses.** Each day that a violation of this Chapter continues shall be deemed a separate violation. Any dog found to be the subject of a violation of this Section shall be subject to immediate seizure, impoundment and removal from the Village by Village officials in the event the owner or keeper of the dog fails to remove the dog from the Village. In addition to the foregoing penalties, any person who violates this Chapter shall pay all expenses, including shelter, food, handling and veterinary care, necessitated by the enforcement of this Chapter.

**TITLE 7** Licensing and Regulation – Village of Gays Mills

**CHAPTER 2**

Fermented Malt Beverages and Intoxicating Liquor

Article A            Fermented Malt Beverages and Intoxicating Liquor

- 7-2-1            State Statutes Adopted
- 7-2-2            Definitions
- 7-2-3            License Required
- 7-2-4            Classes of Licenses
- 7-2-5            License Fees
- 7-2-6            Application for License
- 7-2-7            Qualifications of Applicants and Premises
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Article B            Operator’s License

- 7-2-17           When Operator’s License Required
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- 7-2-25           Penalties

# TITLE 7 Licensing and Regulation – Village of Gays Mills

## ARTICLE A

### Fermented Malt Beverages and Intoxicating Liquor

#### **SEC. 7-2-1 STATE STATUTES ADOPTED.**

The provisions of Chapter 125 of the Wisconsin Statutes, relating to the sale of intoxicating liquor and fermented malt beverages, except provisions therein relating to incarceration as a penalty to be imposed and except as otherwise provided for in this Chapter, are hereby adopted by reference and made a part of this Chapter as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this Chapter. Any future amendment, revisions or modifications of the statutes incorporated herein are intended to be made a part of this Chapter in order to secure uniform statewide regulation of alcohol beverage control.

State Law Reference: Ch. 125, *Wis. Stats.*

#### **SEC. 7-2-2 DEFINITIONS.**

As used in this Chapter the terms “Alcohol Beverages,” “Intoxicating Liquors,” “Brewer,” “Wine,” “Hotel,” “Principal Business,” “Legal Drinking Age,” “Premises,” “Sell,” “Sold,” “Sale,” “Restaurant,” “Club,” “Retailer,” “Person,” “Fermented Malt Beverages,” “Wholesalers,” and any and all other terms defined in Chapter 125, *Wis. Stats.*, shall have the meaning given them by Chapter 125, *Wis. Stats.*

State Law Reference: Sec. 125.02, *Wis. Stats.*

#### **SEC. 7-2-3 LICENSE REQUIRED.**

No person shall sell or engage in any activity for which this Chapter or Chapter 125 of the Wisconsin Statutes provides a license or other type of authorization without having procured an appropriate license or authorization issued under this Chapter nor without complying with all the provisions of this Chapter, and all statutes and regulations applicable thereto, except as otherwise provided by this Chapter or Chapter 125 of the Wisconsin Statutes.

State Law Reference: Secs. 125.04(1) and 125.06, *Wis. Stats.*

#### **SEC. 7-2-4 CLASSES OF LICENSES.**

- (a) **Retail “Class A” Intoxicating Liquor License.** A retail “Class A” intoxicating liquor license, when issued by the Village Clerk-Treasurer under the authority of the Village Board, shall authorize the retail sale of intoxicating liquors only in original packages or containers and to be consumed off the premises where sold.

## TITLE 7 Licensing and Regulation – Village of Gays Mills

- (b) **Retail “Class B” Intoxicating Liquor License/Reserve “Class B” License.** A retail “Class B” intoxicating liquor license, when issued by the Village Clerk-Treasurer under authority of the Village Board, shall authorize the retail sale of intoxicating liquors to be consumed by the glass only on the premises where sold and in the original package or container in multiples not to exceed four (4) liters at any one (1) time, to be consumed off the premises where sold, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off the premises. A Reserve “Class B” License shall be as defined in Section 125.51(4)(a)4, *Wis. Stats.*
- (c) **Class “A” Fermented Malt Beverage Retailer’s License.** A Class “A” retailer’s fermented malt beverage license, when issued by the Village Clerk-Treasurer under the authority of the Village Board, shall authorize the retail sale of fermented malt beverages only for consumption off the premises where sold and in the original packages, containers or bottles. Such license may be issued after July 1st. The license shall expire on the following June 30th. A Class “A” license may not be issued to a wholesaler specified in Section 125.25(2)(b)1, *Wis. Stats.*, but may be renewed under the circumstances specified in Section 125.25(2)(b)2, *Wis. Stats.*
- (d) **Class “B” Fermented Malt Beverage Retailer’s License.**
- (1) License. A Class “B” fermented malt beverage retailer’s license, when issued by the Village Clerk-Treasurer under the authority of the Village Board, shall authorize the retail sale of fermented malt beverages, either to be consumed upon the premises where sold or off the premises. The holder of such license may also sell beverages containing less than 0.5% of alcohol by volume, without obtaining a license under Section 66.053(1), *Wis. Stats.* Such license may be issued after July 1st. The license shall expire on the following June 30th.
- (2) Application. Class “B” licenses may be issued to any person qualified under Section 125.04(5), *Wis. Stats.* Such licenses may not be issued to any person acting as agent for or in the employ of another except that this restriction does not apply to a hotel or restaurant which is not a part of or located on the premises of any mercantile establishment, or to a bona fide club, society or lodge that has been in existence for at least six (6) months before the date of application. A Class “B” license for a hotel, restaurant, club, society or lodge may be issued in the name of an officer who shall be personally responsible for compliance with this Chapter. Except as provided in Section 125.31, *Wis. Stats.*, Class “B” licenses may not be issued to brewers. Except as provided in Section 125.29, *Wis. Stats.*, Class “B” licenses may not be issued to wholesalers specified in Section 125.26(1)(b)2a, *Wis. Stats.*, but may be renewed under the circumstances specified in Section 125.26(1)(b)2b, *Wis. Stats.* The application for such license shall conform with the requirements of Section 125.26, *Wis. Stats.*
- (e) **Temporary Class “B” Fermented Malt Beverage License.**
- (1) License. As provided in Sections 125.26(1) and (6), *Wis. Stats.*, temporary Class “B” fermented malt beverage licenses may be issued to bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six (6) months before the date of application and to posts of veterans’ organizations authorizing the sale of fermented malt beverages at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. A license issued to a county or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of fermented malt beverages from leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of fermented malt beverages from the stands while the fair is being held. Such license is valid for dates as approved by the Village Board.
- (2) Application. Application for such license shall be signed by the president or corresponding officer of the society or association making such application and shall be filed with the Village Clerk-Treasurer together with the appropriate license fee for each day for which the license is sought. The license shall specify the hours and dates of license validity. The application shall be



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filed a minimum of fifteen (15) days prior to the meeting of the Village Board at which the application will be considered for events of more than three (3) consecutive days. If the application is for a license to be used in a Village park, the applicant shall specify the main point of sale facility.

(f) **Temporary “Class B” Wine License.**

(1) License. Notwithstanding Section 125.68(3), *Wis. Stats.*, temporary “Class B” licenses may be issued to bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for a least six (6) months before the date of application and to posts of veterans’ organizations authorizing the sale of wine in an original package, container or bottle or by the glass if the wine is dispensed directly from an original package, container or bottle at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. No fee may be charged to a person who, at the same time, applies for a temporary Class “B” fermented malt beverage license under Subsection (e) of this Section and Section 125.26(6), *Wis. Stats.*, for the same event. A license issued to a county or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of wine from leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of wine containing not more than six percent (6%) alcohol by volume from the stands while the fair is being held. Not more than two (2) licenses may be issued under this Subsection to any club, county or local fair association, agricultural association, church, lodge, society or veterans’ post in any twelve (12) month period.

(2) Application. Application for such license shall be signed by the president or corresponding officer of the society or association making such application and shall be filed with the Village Clerk-Treasurer together with the appropriate license fee for each day for which the license is sought. The license shall specify the hours and dates of license validity. The application shall be filed a minimum of fifteen (15) days prior to the meeting of the Village Board at which the application will be considered for events of more than three (3) consecutive days. If the application is for a license to be used in a Village park, the applicant shall specify the main point of sale facility.

(g) **Wholesaler’s License.** A wholesaler’s fermented malt beverage license, when issued by the Village Clerk-Treasurer under authority of the Village Board, shall authorize the sale of fermented malt beverages only in original packages or containers to retailers or wholesalers, not to be consumed in or about the premises where sold.

(h) **Retail “Class C” Licenses.**

(1) In this Subsection “barroom” means a room that is primarily used for the sale or consumption of alcohol beverages.

(2) A “Class C” license authorizes the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold.

(3) A “Class C” license may be issued to a person qualified under Section 125.04(5), *Wis. Stats.*, for a restaurant in which the sale of alcohol beverages accounts for less than fifty percent (50%) of gross receipts and which does not have a barroom or for a restaurant in which the sale of alcohol beverages accounts for less than fifty percent (50%) of gross receipts and which has a barroom in which wine is the only intoxicating liquor sold. A “Class C” license may not be issued to a foreign corporation or a person acting as agent for or in the employ of another.

(4) A “Class C” license shall particularly describe the premises for which it is issued.

State Law Reference: Secs. 125.25, 125.26, 125.28, and 125.51, *Wis. Stats.*

Cross-Reference: Section 7-2-17.

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### SEC. 7-2-5 LICENSE FEES.

The following license fees shall be paid to the Village Clerk-Treasurer immediately prior to the delivery of the license to the applicant:

- (a) **Class “A” Fermented Malt Beverages Retailer’s License.** The annual fee for this license shall be One Hundred Dollars (\$100.00). The fee for a license for less than twelve (12) months shall be prorated according to the number of months or fraction thereof for which the license is issued.
- (b) **Class “B” Fermented Malt Beverage License.** The annual fee for this license shall be One Hundred Dollars (\$100.00). This license may be issued at any time for six (6) months in any calendar year, for which fifty percent (50%) of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued. The fee for a license for less than twelve (12) months shall be prorated according to the number of months or fraction thereof for which the license is issued.
- (c) **Temporary Class “B” Fermented Malt Beverage License.** The fee for this license shall be Fifteen Dollars (\$15.00) per event.
- (d) **Temporary “Class B” Wine License.** The fee for this license shall be Ten Dollars (\$10.00) per event, except that there shall be no fee if at the same time a Temporary Wine License is obtained a person applies for a Temporary Class “B” Fermented Malt Beverage License for the same event.
- (e) **Fermented Malt Beverage Wholesalers’ License.** The fee for this license shall be Twenty-five Dollars (\$25.00) per year or fractional part thereof.
- (f) **“Class A” Intoxicating Liquor Retailer’s License.** The annual fee for this license shall be Four Hundred Dollars (\$400.00).
- (g) **“Class B” Intoxicating Liquor Retailer’s License.** The annual fee for this license shall be Four Hundred Dollars (\$400.00).
- (h) **Reserve “Class B” License.** The fee for a reserve Class B liquor license shall be \$10,000 for initial issuance. The fee established in this Subdivision is in addition to any other fee required under this chapter. The annual fee for renewal of a reserve Class B license is the regular fee for Class B liquor licenses.
  - (1) The Village of Gays Mills hereby finds that it is in the interests of the public welfare to increase the property tax base, provide employment opportunities, attract tourists and generally enhance the economic and cultural climate of the community by providing additional economic incentives for new businesses with liquor licenses.
  - (2) After the granting of any new reserve Class B license and payment of the \$10,000 initial issuance fee, the applicant may file an application for an economic development grant of \$10,000 with the Clerk. The Village Board shall determine whether the licensee is operating in compliance with the approved license. The Board may require the assistance of any other Village agency or official in making said determination. If the Board determines that the licensee is so operating, the Village Board shall approve the \$10,000 economic development grant. If the Village Board determines that the licensee is not in compliance with the approved license, no economic development grant may be authorized and the Village Board shall make such finding in writing and cause to be delivered a copy of the findings to the licensee. If the licensee disagrees with the Village Board’s determination, appeal thereof may be taken to circuit court pursuant to Section 753.04, Wis. Stats.
- (i) **“Class C” Retail License.** The annual fee for this license shall be One Hundred Dollars (\$100.00).

State Law Reference: Secs. 125.25, 125.26 and 125.51, *Wis. Stats.*

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### SEC. 7-2-6 APPLICATION FOR LICENSE.

- (a) **Contents.** Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on the form prescribed by the Wisconsin Department of Revenue and shall be sworn to by the applicant and shall be filed with the Village Clerk-Treasurer not less than fifteen (15) days prior to the granting of such license. The premises shall be physically described to include every room and storage space to be covered by the license, including, but not limited to, all rooms not separated by a solid wall or joined by connecting entrances.
- (b) **Corporations.** Such application shall be filed and sworn to by the applicant if an individual, and by the president and secretary, if a corporation.
- (c) **Publication.** The Village Clerk-Treasurer shall publish each application for a Class “A”, Class “B”, “Class A”, “Class B”, or “Class C” license prior to its issuance, except there is no publication requirement for Temporary Class “B” Fermented Malt Beverage licenses under Section 125.26, *Wis. Stats.*, or Temporary “Class B” Wine licenses under Section 125.51(10), *Wis. Stats.* The application shall be published once in the official Village newspaper, and the costs of publication shall be paid by the applicant at the time the application is filed, as determined under Section 985.08, *Wis. Stats.* The publication shall include the name and address of the applicant, the kind of license, and the location of the premises to be licensed.
- (d) **Amending Application.** Whenever anything occurs to change any fact set out in the application of any licensee, such licensee shall file with the Village Clerk-Treasurer a notice in writing of a description of the changed fact within ten (10) days after the occurrence thereof.
- (e) **License Quotas.** The number of persons and places that may be granted a retail “Class B” intoxicating liquor license and a Reserve “Class B” license under this Section is limited as provided in Section 125.51(4), *Wis. Stats.*

State Law Reference: Sec. 125.04(3), *Wis. Stats.*

### SEC. 7-2-7 QUALIFICATIONS OF APPLICANTS AND PREMISES.

- (a) **Natural Persons.** A license relating to alcohol beverages issued to natural persons under this Chapter, may be issued only to persons who fulfill all the requirements of Sections 125.04(5)(a) and (b), *Wis. Stats.*, except as otherwise provided in Section 125.12(1)(b), *Wis. Stats.*
- (b) **Applicant to have Malt Beverage License.** No retail “Class B” intoxicating liquor license shall be issued to a holder of a Class “B” retailer’s license to sell fermented malt beverages except as otherwise provided in Section 125.51(3)(f), *Wis. Stats.*
- (c) **Corporate and Limited Liability Company Restrictions.**
  - (1) No license may be issued to any corporation or limited liability company unless that entity meets the qualifications under Sections 125.04(5)(a)1 and 4 and (5)(b), *Wis. Stats.*, unless the agent of the entity appointed under Section 125.04(6) and the officers and directors or members or managers meet the qualifications of Sections 125.04(5)(a)1 and 3 and (5)(b) and unless the agent of the entity appointed under Section 125.04(6) meets the qualification under Sections 125.04(5)(a)2 and 5. The requirement that the entity meet the qualifications under Sections 125.04(5)(a)1 and (5)(b) does not apply if the entity has terminated its relationship with all of the individuals whose actions directly contributed to the conviction.
  - (2) No corporation or limited liability company organized under the laws of this State or of any other state or foreign country may be issued any alcohol beverage license unless the requirements specified in Section 125.04(6), *Wis. Stats.*, are satisfied.

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- (d) **Sales Tax Qualification.** All applicants for retail licenses shall provide proof, as required by Section 77.61(11), *Wis. Stats.*, before they may be issued a license that they are the holder of a seller’s permit as required by Subchapter III of Chapter 77, *Wis. Stats.*, or have been informed by an employee of the Wisconsin Department of Revenue that such Department will issue a seller’s permit to the person.

State Law Reference: Secs. 125.04(5) and (6) and 125.12(1)(b), *Wis. Stats.*

### SEC. 7-2-8 APPROVAL OF APPLICATION.

- (a) **Generally.** No license shall be granted unless the applicant qualifies under Section 7-2-7 and Section 125.04, *Wis. Stats.*, except as otherwise provided in Section 125.12(1)(b), *Wis. Stats.*
- (b) **Money Owed Village.** No license shall be granted for operation on any premises or equipment for which taxes, assessments, forfeitures or other financial claims of the Village are delinquent and unpaid.
- (c) **State Building Code.** No license shall be issued if the Village has been notified that the premises does not conform to the sanitary, safety and health requirements of the State Building Code. The premises must be properly lighted and ventilated, must be equipped with separate sanitary toilet and lavatory facilities equipped with running water for each sex and must conform to all Ordinances of the Village and other applicable law.
- (d) **“Class A” and “Class B” Licenses.** Except as otherwise provided in Section 125.68(3), *Wis. Stats.*, no “Class A” or “Class B” license may be issued for premises the main entrance of which is less than three hundred (300) feet from the main entrance of any public or parochial school, hospital or church. The distance shall be measured by the shortest route along the highway from the main entrance of the school, church, or hospital to the main entrance of the premises covered by the license.
- (e) **“Class B” and “Class C” Licenses.** No applicant may obtain a “Class B” license or a “Class C” license unless the premises complies with the rules promulgated by the Wisconsin Department of Health and Family Services governing sanitation in restaurants.
- (f) **Further Considerations.** Further considerations for the granting or denial of a license shall include:
- (1) The financial responsibility of the applicant;
  - (2) The appropriateness of the location and the premises where the licensed business is to be conducted; and
  - (3) Generally, the applicant’s fitness for the trust to be reposed.

State Law Reference: Secs. 125.68(3) and (5) and 125.12(1)(b), *Wis. Stats.*

### SEC. 7-2-9 GRANTING OR DENIAL OF LICENSE.

- (a) **Issuance.** Opportunity shall be given by the Village to any person to be heard for or against the granting of any license. Upon the approval of the applicant by the Village Board, but not until the applicant has paid the license fee, the Village Clerk-Treasurer shall issue to the applicant a license. The full license fee shall be charged for the whole or fraction of any year.
- (b) **Denial/Notice.** If the Village Board denies the license, the applicant shall be notified in writing, by registered mail or personal service, of the reasons for the denial. The notice shall also inform the applicant of the opportunity to appear before the Village Board and to provide evidence as to why the denial should be reversed. In addition, the notice shall inform the applicant that the reconsideration of the application shall be held in closed session, pursuant to Section 19.85(1)(b), *Wis. Stats.*, unless the

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applicant requests such reconsideration be held in open session. Such written notice shall be mailed or served upon the applicant at least ten (10) days prior to the Village Board meeting at which the application is to be reconsidered.

### SEC. 7-2-10 TRANSFER OF LICENSE.

- (a) **From Place to Place.** In accordance with the provisions of Section 125.04(12)(a), *Wis. Stats.*, a license shall be transferable from one premises to another within the Village on payment of a fee in the amount of Ten Dollars (\$10.00). No licensee is entitled to more than one (1) transfer during the license year. This Subsection does not apply to a license issued under Section 125.51(4)(v), *Wis. Stats.*, or to a Reserve “Class B” license as defined in Section 125.51(4)(a), *Wis. Stats.*
- (b) **From Person to Person.** Licenses may be transferred to persons other than the licensee if the requirements of Section 125.04(12)(b), *Wis. Stats.*, and any other applicable requirements of this Chapter and Chapter 125, *Wis. Stats.*, are satisfied. Whenever a license is transferred, the Village Clerk-Treasurer shall forthwith notify the Wisconsin Department of Revenue of such transfer.

State Law Reference: Sec. 125.04(12), *Wis. Stats.*

### SEC. 7-2-11 NUMBERING OF LICENSES AND LICENSEE LIST.

All licenses shall be numbered in the order in which they are issued and shall state clearly the specific premises for which granted, the date of issuance, the fee paid and the name of the licensee. The Village Clerk-Treasurer shall annually mail to the Wisconsin Department of Revenue a list of licensees, which shall contain the information required by Section 125.04(4) of the Wisconsin Statutes.

### SEC. 7-2-12 POSTING LICENSES; POSTING ON OTHER PREMISES AND DEFACEMENT.

- (a) **Posting.** Every person licensed in accordance with the provisions of this Chapter shall immediately post such license enclosed in a frame having a transparent front which allows the license to be clearly read and keep the same so posted while in force in a conspicuous place in the room or place where the activity subject to the licensure is carried on except as otherwise provided in Section 125.04(10)(b), *Wis. Stats.*
- (b) **Posting on Other Premises/Defacement.** It shall be unlawful for any person to post such license or to be permitted to post it upon premises other than those mentioned in the application unless transferred or knowingly to deface or destroy such license.

State Law Reference: Sec. 125.04(10), *Wis. Stats.*

### SEC. 7-2-13 CONDITIONS OF LICENSE.

All retail Class “A”, Class “B”, “Class A”, “Class B” and “Class C” licenses granted hereunder shall be granted subject to the following conditions, and subject to all other Ordinances and regulations of the Village applicable thereto.

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- (a) **Legal Compliance.** Compliance with this Chapter and Chapter 125, *Wis. Stats.*, including, but not limited to, nonoccurrence of any of the events giving rise to a right to revoke, suspend, or refuse to renew a license specified in Section 125.12(2)(ag), *Wis. Stats.*, except as provided in Section 125.12(1)(b), *Wis. Stats.*
- (b) **Consent to Entry.** Every applicant procuring a license thereby consents to the entry of law enforcement authorities or duly authorized representatives of the Village at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all things and articles there had in violation of Village Ordinances or State laws, and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.
- (c) **Licensed Operator on Premises.** Except as provided in Sections 125.32(3)(b) and 125.07(3)(a)10, *Wis. Stats.*, there shall be upon premises operated under a Class “A”, Class “B”, “Class A”, “Class B”, or “Class C” license, when it is open for business, the licensee or permittee, the agent named in the license or permit if the licensee or permittee is a corporation or limited liability company, or some person who has an operator’s license and who is responsible for the acts of all persons serving or selling any alcohol beverages to customers. No person other than the licensee, permittee or agent may serve or sell alcohol beverages in any place operated under any such license unless he possesses an operator’s license, or is at least eighteen (18) years of age and is under the immediate supervision of the licensee, agent, or person holding an operator’s license, who is on the premises at the time of the service.
- (d) **Health and Sanitation Regulations.** The rules and regulations of the Wisconsin Department of Health and Family Services governing sanitation in restaurants shall apply to all “Class B” liquor and “Class C” licenses issued under this Chapter and premises operated under such licenses shall continue to conform to such rules and regulations.
- (e) **Clubs.** No club shall sell or give away any intoxicating liquors except to bona fide members and guests invited by members.
- (f) **Gambling Prohibited.** Except as authorized by State law, no gambling or game of chance of any sort shall be permitted in any form upon any premises licensed under this Chapter or the laws of the State of Wisconsin.
- (g) **Credit Prohibited.** No retail Class “A”, Class “B”, “Class A”, “Class B”, or “Class C” liquor, wine, or fermented malt beverage licensee shall sell or offer for sale any alcohol beverage to any person or persons by extending credit, except hotel credit extended to a resident guest or a club to a bona fide member. It shall be unlawful for such licensee or permittee to receive from any person any goods, ware, merchandise or other articles in exchange for alcohol beverages.
- (h) **Licensee or Permittee Responsible for Acts of Help.** A violation of this Chapter by a duly authorized agent or employee of a licensee under this Chapter shall constitute a violation by the licensee. Whenever any licensee under this Chapter shall violate 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.

State Law Reference: Secs. 125.32(2) and 125.68(2), *Wis. Stats.*

Annotation: See *Colonnade Catering Corp. v. United States*, 397 U.S. 72, 90 S. Ct. 774 (1970); and *State v. Erickson*, 101 Wis.2d 224 (1981), for guidelines for warrantless searches of licensed premises.

### SEC. 7-2-14 CLOSING HOURS.

Closing hours shall be established in conformance with Sections 125.32(3) and 125.68(4), *Wis. Stats.*, including, but not limited to, the following:

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- (a) **Class “B” Licenses.**
  - (1) No premises for which a retail “Class B” liquor, Class “B” fermented malt beverage, or “Class C” wine license has been issued shall be permitted to remain open for the sale of intoxicating 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 2:30 a.m. and 6:00 a.m., Saturday and Sunday. There shall be no closing hours on January 1st.
  - (2) Hotels and restaurants, the principal business of which is the furnishing of food or lodging to patrons, bowling alleys, indoor horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business but shall not sell intoxicating liquor or malt beverages during the closing hours of Subsection (a)(1) above.
- (b) **Carryout Hours.** Class “A” premises may remain open for the conduct of their regular business but may not sell fermented beverages between midnight and 6:00 a.m. “Class A” premises may not remain open for the sale of intoxicating liquor between 9:00 p.m. and 6:00 a.m.”
- (c) **Wholesalers.** No premises for which a wholesale intoxicating liquor permit has been issued may remain open for the sale of intoxicating liquor between the hours of 5:00 p.m. and 8:00 a.m., except on Saturdays the premises may remain open until 9:00 p.m.

### SEC. 7-2-15 RESTRICTIONS ON TEMPORARY FERMENTED MALT BEVERAGE OR WINE LICENSES.

It shall be unlawful for any person or organization on a temporary basis to sell or offer to sell any alcohol beverage upon any Village-owned property or privately-owned property within the Village of Gays Mills, except through the issuance of a temporary Class “B” fermented malt beverage license or temporary “Class B” wine license issued by the Village Board in accordance with Wisconsin Statutes and as set forth in this Section.

A temporary Class “B” fermented malt beverage license or temporary “Class B” wine license authorizing the sale and consumption of beer and/or wine on Village-owned property or privately-owned property may be authorized by the Village Board provided the following requirements are met:

- (a) **Compliance with Eligibility Standards.** The organization shall meet the eligibility requirements of a bona fide club, association, lodge or society as set forth in Sections 125.26(6) and 125.51(10), *Wis. Stats.*, and shall fully comply with the requirements of this Section and Section 11-4-1. 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 will be.
- (b) **Posting of Signs and Licenses.** All organizations issued a temporary license shall post in a conspicuous location at the main point of sale and at all remote points of sale a sufficient number of signs stating that no fermented malt beverage shall be served to any under-age person without proper identification.
- (c) **Fencing.**
  - (1) 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 ingress and egress and continually station a licensed operator, security guard or other competent person at the entrance for the purpose of checking age identification. Where possible, there shall be only one (1) point of ingress and egress. When required, the double fence shall be a minimum of four (4) feet high and a minimum of six (6) feet between fences.
  - (2) For indoor events, the structure used shall have suitable exits and open spaces to accommodate anticipated attendance. It should contain adequate sanitary facilities to accommodate the size of the group.
- (d) **Underage Persons Prohibited.** No underage persons as defined by the Wisconsin Statutes shall be allowed to assist in the sale of fermented malt beverages or wine at any point of sale, nor shall they be

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- allowed to loiter or linger in the area of any point of sale.
- (e) **Licensed Operators Requirement.** A licensed operator shall be stationed at all points of sales at all times.
  - (f) **Waiver.** The Village Board may waive or modify the requirements of this Section due to the physical characteristics of the licensed site.
  - (g) **Insurance.** The applicant for a temporary fermented malt beverage or wine license 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 license is granted. As evidence of the applicant's ability to perform the conditions of the license, the applicant may be required to furnish a certificate of Comprehensive General Liability insurance to the Village of Gays Mills. The applicant may be required to furnish a performance bond prior to being granted the license.

### SEC. 7-2-16 REVOCATION AND SUSPENSION OF LICENSES; NON-RENEWAL.

- (a) **Procedure.** Whenever the holder of any license under this Chapter violates any portion of this Chapter or Chapter 125, *Wis. Stats.*, including, but not limited to, Section 125.12(2), *Wis. Stats.*, proceedings for the revocation or suspension of such license may be instituted in the manner and under the procedure established by this Section, except that, pursuant to Section 125.12(1)(c) *Wis. Stats.*, no arrest or conviction punishable under Sections 945.03(2m), 945.04(2m), or 945.05(1m), concerning certain video gambling machine offenses, may be considered in any action to revoke or suspend a Class "B" or "Class B" license or permit, and except that, pursuant to Section 125.12(1)(b), *Wis. Stats.*, no violation of Section 125.07(1)(a), *Wis. Stats.* (Alcohol Beverages; Restrictions Relating to Underage Persons), may be considered unless the licensee has committed another violation of such statute within one (1) year preceding the violation, and if a licensee has committed two (2) or more subsequent violations of such statute within one (1) year, then all such subsequent violations committed within one (1) year of a previous violation may be considered.
- (b) **Abandonment of Premises.** Any licensee holding a license to sell alcohol beverages who abandons such business shall forfeit any right or preference he may have to the holding of or renewal of such license. Abandonment shall be sufficient grounds for revocation of any alcohol beverage licenses. The closing of the licensed premises for at least six (6) months shall be prima facie evidence of the abandonment. All persons issued a license to sell alcohol beverages in the Village for which a quota exists limiting the number of such licenses that may be issued by the Village shall cause such business described in such license to be operated on the premises described in such license for at least one hundred fifty (150) days during the term of such license, unless such license is issued for a term of less than one hundred eighty (180) days, in which event this Subsection shall not apply.
- (c) **License Revocation or Suspension.** License revocation or suspension procedures shall be as prescribed by Section 125.12(2), *Wis. Stats.*, and any other applicable law.
- (d) **Non-Renewal.** Refusal to renew procedures shall be as prescribed in Section 125.12(3), *Wis. Stats.*, and any other applicable law. Considerations in such proceedings shall not include matter excluded from consideration by Section 125.12(1)(b) and 125.12(1)(c), *Wis. Stats.*
- (e) **Reports.** The Village Clerk-Treasurer shall comply with the provisions of Section 125.13, *Wis. Stats.*, concerning reports to the Wisconsin Department of Revenue.

State Law Reference: Sec. 125.12, *Wis. Stats.*



ARTICLE B

Operator's License

SEC. 7-2-17 WHEN OPERATOR'S LICENSE REQUIRED.

- (a) **Operator's Licenses; Class "A", Class "B" or "Class A", Class B", or "Class C" Premises.** Except as provided under Sections 125.32(3)(b) and 125.07(3)(a)10, *Wis. Stats.*, no premises operated under a Class "A" or Class "B", or "Class A", "Class B", or "Class C" license or permit may be open for business unless there is upon the premises the licensee or permittee, the agent named in the license or permit if the licensee or permittee is a corporation or limited liability company, or some person who has an operator's license and who is responsible for the acts of all persons selling or serving any fermented malt beverages or intoxicating liquor to customers. For the purpose of this Section, any person holding a manager's license under Section 125.18, *Wis. Stats.*, or any member of the licensee's or permittee's immediate family who has attained the age of eighteen (18), shall be considered the holder of an operator's license. No person, including a member of the licensee's or permittee's immediate family, other than the licensee, permittee or agent, may serve fermented malt beverages or intoxicating liquor in any place operated under a Class "A" or Class "B", or "Class A", "Class B", or "Class C" license or permit unless he or she has an operator's license or is at least eighteen (18) years of age and is under the immediate supervision of the licensee, permittee, agent or a person holding an operator's license, who is on the premises at the time of the service. Operator's licenses are required only for the purpose of compliance with these requirements and with Sections 125.32(2) and 125.68(2), *Wis. Stats.*
- (b) **Use by Another Prohibited.**
- (1) No person may allow another to use his or her Class "A" or Class "B", or "Class A", "Class B", or "Class C" license or permit to sell alcohol beverages.
  - (2) The license or permit of a person who violates Subsection (b)(1) above shall be revoked.

State Law Reference: Secs. 125.17, 125.32(2), and 125.68(2), *Wis. Stats.*

SEC. 7-2-18 PROCEDURE UPON APPLICATION.

- (a) **Written Application.** The Village Board may issue an operator's license, which license shall be granted only upon application in writing on forms to be obtained from the Village Clerk-Treasurer. Operator's licenses shall be operative only within the limits of the Village.
- (b) **Investigation.** All applications are subject to an investigation by Village-designated law enforcement authorities and/or other appropriate authority to determine whether the applicant and/or premises to be licensed complies with all regulations, ordinances and laws applicable thereto. The investigating authority shall conduct an investigation of the applicant including, but not limited to, requesting information from the State, surrounding municipalities, and/or any community where the applicant has previously resided concerning the applicant's arrest and conviction record. Based upon such investigation, the investigating authority shall recommend, in writing, to the Village Board approval or denial of the application. If the investigating authority recommends denial, the investigating authority shall provide, in writing, the reasons for such recommendation.

## TITLE 7 Licensing and Regulation – Village of Gays Mills

### SEC. 7-2-19 DURATION.

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

State Law Reference: Sec. 125.17(3), *Wis. Stats.*

### SEC. 7-2-20 OPERATOR'S LICENSE FEE; PROVISIONAL LICENSE.

- (a) **Fee.** The fee for an operator's license shall be Eighteen Dollars and Seventy-Five Cents (\$18.75) for the term or part thereof. The non-refundable fee for a provisional license shall be Eighteen Dollars and Seventy-Five Cents (\$18.75).
- (b) **Provisional License.** The Village Clerk-Treasurer may issue provisional operator's licenses in accordance with Section 125.17(5), *Wis. Stats.* 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. The Chief of Police shall submit to the Clerk-Treasurer a report regarding the applicant's conviction history, if any. Except as otherwise provided by Section 125.17(6)(a), *Wis. Stats.*, the applicant for such provisional license must present evidence to the Clerk-Treasurer establishing that the applicant is enrolled in a responsible beverage server training course established pursuant to Section 125.17(6)(a), *Wis. Stats.* 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 his/her successful completion of the approved program. No such provisional operators license shall be issued unless the applicant has also applied for a regular operator's license and prior to a waiting period of less than ninety-six (96) hours [four (4) days] and the completion of a background check subject to limitations established by law. A provisional license may not be issued to any person who has been denied an operator's license by the Village Board, who has had his/her 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 responsible beverage server training course without first successfully completing the program. 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 he/she discovers that the holder of the license made a false statement on the application. A provisional license shall not be renewed.

### SEC. 7-2-21 ISSUANCE OR DENIAL OF OPERATOR'S LICENSES.

- (a) **Issuance.** After the Village Board approves the granting of an operator's license, the Village Clerk-Treasurer 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 and Reconsideration.**
  - (1) If the application is denied by the Village Board, the Village Clerk-Treasurer shall, in writing, inform the applicant of the denial, the reasons therefore, and of the opportunity to request a reconsideration of the application by the Village Board in a closed session. Such notice must be sent by registered mail to, or served upon, the applicant at least ten (10) days prior to the Board's reconsideration of the matter. At such reconsideration hearing, the applicant may present evidence and testimony as to why the license should be granted.

## TITLE 7 Licensing and Regulation – Village of Gays Mills

- (2) If, upon reconsideration, the Board again denies the application, the Village Clerk-Treasurer shall notify the applicant in writing of the reasons therefor. An applicant who is denied any license upon reconsideration of the matter, may apply to Circuit Court pursuant to Section 125.12(2)(d), *Wis. Stats.*, for review.
- (c) **Standards/Conviction.**
  - (1) The standards for the granting or denial of an operator’s license are those contained in Section 125.17, *Wis. Stats.*
  - (2) If a licensee is convicted of an offense substantially related to the licensed activity, the Village Board may act to revoke or suspend the license.

State Law Reference: Sec. 125.17, *Wis. Stats.*

### SEC. 7-2-22 TRAINING COURSE.

- (a) **Training Course.** Except as provided in Subsection (b) below, the Village Board 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 technical college district and that conforms to curriculum guidelines specified by the technical college system board or a comparable training course that is approved by the Wisconsin Department of Revenue or the Wisconsin Educational Approval Board or unless 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.
- (b) **Provisional License.** The Village Board may issue a provisional operator’s license to a person who is enrolled in a training course under Subsection (a) above and shall revoke that license if the applicant fails successfully to complete the course in which he or she enrolls.
- (c) **Purchase of Other Materials.** The Village Board may not require that applicants for operators’ licenses undergo training in addition to that under Subsection (a), but may require applicants to purchase, at cost, materials that deal with relevant local subjects not covered in the course under Subsection (a).

State Law Reference: Sec. 125.17(6), *Wis. Stats.*

### SEC. 7-2-23 DISPLAY OF LICENSE.

Each license issued under the provisions of this Chapter shall be framed and displayed in accordance with the requirements of Section 125.04(10), *Wis. Stats.*

### SEC. 7-2-24 REVOCATION OF OPERATOR’S LICENSE.

Violation of any of the laws specified in Section 7-2-17(a) by any person holding such operator’s license shall be cause for revocation of the license.

ARTICLE C

Penalties

SEC. 7-2-25 PENALTIES.

- (a) **Forfeitures Identical to State Law.** Forfeitures for violations of Sections 125.07(1)-(4), 125.075, 125.085, and 125.09(2) of the Wisconsin Statutes, adopted by reference in Section 7-2-1 of the Code of Ordinances of the Village of Gays Mills, shall 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) **Other Forfeitures.** Any person who shall violate any provision of this Chapter of the Code of Ordinances of the Village of Gays Mills, except as otherwise provided in Subsection (a) herein, or who shall conduct any activity or make any sale for which a license is required without a license, shall be subject to a forfeiture as provided in the general penalty section of this Code of the Village of Gays Mills.
- (c) **Sentencing Court Powers.** Nothing herein shall preclude or affect the power of the sentencing court to exercise additional powers granted by the Wisconsin Statutes.

CHAPTER 3

Cigarette and Tobacco Products License and Regulation

7-3-1	Cigarette and Tobacco Products License
7-3-2	Restrictions on Sale or Gift

SEC. 7-3-1 CIGARETTE AND TOBACCO PRODUCTS LICENSE.

- (a) **License Required.** No person, firm, partnership, association, limited liability company, or corporation in the Village of Gays Mills shall, in any manner, or upon any pretense, or by any device, directly or indirectly, sell, exchange, barter, dispose of or give away, any cigarettes or any tobacco products, to any person not holding a license as herein provided or a permit under Sections 139.30 to 139.41 or 139.79, *Wis. Stats.*, without first obtaining a license as hereinafter provided.
- (b) **Application for License; Issuance; Fee.** Every person, firm, partnership, association, limited liability company, or corporation desiring a license under this Section shall file with the Village Clerk-Treasurer a written application therefor, stating the name of the person and the place for which such license is desired. Each license shall be issued by the Village Clerk-Treasurer and shall name the licensee and the place wherein he/she is authorized to conduct such business, and the same shall not be issued until the applicant shall pay to the Village Clerk-Treasurer a license fee of Ten Dollars (\$10.00).
- (c) **Term of License.** Each license shall be issued on the first day of July in each year, or when applied for, and shall continue in force from date of issuance until the succeeding June 30th unless sooner revoked for any violation of this Section.
- (d) **Non-Transfer.** Such licenses shall not be transferable from one person to another nor from one premises to another.
- (e) **Records.** Every licensed retailer shall keep complete and accurate records of all purchases and receipts of cigarettes and tobacco products. Such records shall be preserved on the licensed premises for two (2) years in such a manner as to insure permanency and accessibility for inspection and shall be subject to inspection at all reasonable hours by authorized State and local law enforcement officials.
- (f) **Penalties.** Any person, firm, partnership, association, limited liability company, or corporation violating this Section shall be fined not more than One Hundred Dollars (\$100.00) nor less than Twenty-five Dollars (\$25.00) for the first offense and not more than Two Hundred Dollars (\$200.00) nor less than Twenty-five Dollars (\$25.00) for the second or subsequent offense, plus any and all applicable costs, assessments, and surcharges. If upon such second or subsequent violation, the person or entity so violating this Section was personally guilty of a failure to exercise due care to prevent violation thereof, the person or entity shall be fined not more than Three Hundred Dollars (\$300.00) nor less than Twenty-five Dollars (\$25.00). Conviction shall immediately terminate the license of the person or entity convicted of being personally guilty of such failure to exercise due care and the person or entity shall not be entitled to another license hereunder for a period of five (5) years thereafter, nor shall the person or entity in that period act as the servant or agent of a person or entity licensed hereunder for the performance of the acts authorized by such license.

State Law Reference: Sec. 134.65, *Wis. Stats.*

## **TITLE 7** Licensing and Regulation – Village of Gays Mills

### **SEC. 7-3-2 RESTRICTIONS ON SALE OR GIFT.**

Section 134.66 of the Wisconsin Statutes describing and defining restrictions on the sale or gift of cigarettes or tobacco products, including the penalties to be imposed, is hereby adopted and by reference made a part of this Chapter as if fully set forth herein. Any act required to be performed or prohibited by such statute is required or prohibited by this Section. Any existing or future amendments, revisions or modifications of such statute are also incorporated herein. Any person who shall within the Village of Gays Mills, Wisconsin, violate any provision of such statute shall be deemed to have violated this Section.

# TITLE 7 Licensing and Regulation – Village of Gays Mills

## CHAPTER 4

### Mobile Home Parks and Mobile Homes

7-4-1	Definitions
7-4-2	License Required
7-4-3	License Revocation or Suspension
7-4-4	License Fee
7-4-5	Monthly Parking Permit Fee
7-4-6	License Application
7-4-7	Plans and Specifications To Be Filed
7-4-8	Limitations, Restrictions, and Regulations
7-4-9	Drainage, Sewage, Water, and Lighting requirements
7-4-10	Parking Space Pavement
7-4-11	Yard Requirements
7-4-12	Conditions Insured
7-4-13	Park Register
7-4-14	Mobile Home Outside Park
7-4-15	Penalty for Violation

#### SEC. 7-4-1 DEFINITIONS

The following terms shall have the following meanings in this Chapter:

- (a) “Dependent mobile home” means a mobile home which does not have complete bathroom facilities.
- (b) “Licensee” means any person licensed to operate and maintain a mobile home park under this Chapter.
- (c) “Licensing authority” means the Village.
- (d) “Mobile home” is that which is, or was as originally constructed, designed to be transported by any motor vehicle on a public highway and designed, equipped, and used primarily for sleeping, eating, and living quarters, or is intended to be so used, and includes any additions, attachments, annexes, foundations, and appurtenances.
- (e) “Mobile home park” means any plot or plots of ground on which two (2) or more units, occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodation.
- (f) “Nondependent mobile home” means a mobile home equipped with complete bath and toilet facilities, and all furniture, cooking, heating, appliances, and complete year round facilities.
- (h) “Park” means mobile home park.
- (l) “Space” means a plot of ground within a mobile home park, designed for the accommodation of one (1) mobile home unit.
- (j) “Unit” means a mobile home unit.

State Law Reference: Sec. 66.058(1), *Wis. Stats.*

## TITLE 7 Licensing and Regulation – Village of Gays Mills

### SEC. 7-4-2 LICENSE REQUIRED

It is unlawful for any person to maintain or operate any mobile home park within the limits of the Village unless such person first obtains a license therefor from the Village.

State Law Reference: Sec. 66.058(2)(a), *Wis. Stats.*

### SEC. 7-4-3 LICENSE REVOCATION OR SUSPENSION

Any license granted under the provisions of this Chapter shall be subject to revocation or suspension for cause by the Village Board on complaint filed with the Village Clerk-Treasurer signed by any law enforcement officer, local health officer, as defined in Section 250.01(5), *Wis. Stats.*, or building inspector, after a public hearing on such complaint. The holder of the license shall be given ten (10) days notice in writing of such hearing and shall be entitled to appear and be heard on why his license should not be revoked. Any holder of a license that is revoked or suspended by the Village Board may within twenty (20) days of the date of revocation or suspension appeal therefrom to the Circuit Court for Crawford County, Wisconsin, by filing a written notice of appeal with the Village Clerk-Treasurer together with a bond executed to the Village in the sum of five hundred dollars (\$500.00) with two (2) sureties or a bonding company approved by the Village Clerk-Treasurer, conditioned on the faithful prosecution of such appeal and the payment of costs adjudged against the license holder.

State Law Reference: Sec. 66.058(2)(d), *Wis. Stats.*

### SEC. 7-4-4 LICENSE FEE

Each licensee shall pay an annual fee to the Village Clerk-Treasurer in advance for each calendar year or fraction thereof of One Hundred Dollars (\$100.00) for each fifty (50) spaces or fraction thereof within each mobile home park within the Village limits, except that where the park lies within more than one (1) municipality the amount of the license fee shall be such fraction thereof as the number of spaces in the park in the Village bears to the entire number of spaces in the park. The Village shall collect a fee of Ten Dollars (\$10.00) for each transfer of a license. This Section shall not apply where a mobile home park is owned and operated by a county under the provisions of Section 59.52(16)(b), *Wis. Stats.*

State Law Reference: Sec. 66.058(3)(a), (b), and (d), *Wis. Stats.*

### SEC. 7-4-5 MONTHLY PARKING PERMIT FEE

- (a) **Monthly Parking Permit Fee.** In addition to the license fee provided for in Section 7-4-4, the Village shall collect from each mobile home occupying space or lots in a mobile home park in the Village, except from mobile homes that constitute improvements to real property under Section 70.043(1), *Wis. Stats.*, and from recreational mobile homes and camping trailers as defined in Section 70.111(19), *Wis. Stats.*, a monthly parking permit fee computed as follows:
- (1) On January 1, the Village assessor shall determine the total fair market value of each mobile home in the Village subject to the monthly parking permit fee;
  - (2) The fair market value, determined under Subsection (a)(1) of this Section, minus the tax exempt household furnishings thus established, shall be equalized to the general level of assessment for the prior year on other real and personal property in the Village;
  - (3) The value of each mobile home, determined under Subsection (a)(2) of this Section, shall be multiplied by the general property gross tax rate, less any credit rate for the property tax relief



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- credit, established on the preceding year's assessment of general property.
- (4) The total annual parking permit fee, computed under Subsection (a)(3) of this Section, shall be divided by twelve (12) and shall represent the monthly mobile home parking permit fee.
- (b) **Addition of Mobile Homes to Park.** The monthly parking permit fee shall be applicable to mobile homes moving into the Village any time during the year. The park operator shall furnish information to the Village Clerk-Treasurer and assessor on mobile homes added to the park within five (5) days after their arrival, on forms prescribed by the State of Wisconsin Department of Revenue. As soon as the assessor receives the notice of an addition of a mobile home to a park, the assessor shall determine its fair market value and notify the Village Clerk-Treasurer of that determination. The Village Clerk-Treasurer shall equate the fair market value established by the assessor and shall apply the appropriate tax rate, divide the annual parking permit fee thus determined by twelve (12) and notify the mobile home owner of the monthly fee to be collected from the mobile home owner. Liability for payment of the fee shall begin on the first day of the next succeeding month and shall remain on the mobile home only for such months as the mobile home remains in the Village.
- (c) **Establishing Fee.** A new monthly parking fee rate and a new valuation shall be established each January and shall continue for that calendar year.
- (d) **Review.** The valuation established shall be subject to review as are other values established under Chapter 70, *Wis. Stats.* If the Board of Review reduces a valuation on which previous monthly payments have been made the Village shall refund past excess fee payments.
- (e) **Payment.** The monthly parking permit fee shall be paid by the mobile home owner to the Village on or before the tenth of the month following the month for which such parking permit fee is due.
- (f) **Liability and Collection.** The licensee of a park shall be liable for the monthly parking fee for any mobile home occupying space therein as well as the owner and occupant thereof. The mobile home park operator shall collect the monthly permit parking fee from the mobile home owner and may deduct, for administrative expenses, two percent (2%) of the monthly parking fees collected.
- (g) **Failure to Timely Pay.** Failure to timely pay the tax hereunder shall be treated in all respects like a default in payment of personal property tax and shall be subject to all procedures and penalties applicable thereto under Chapters 70 and 74 *Wis. Stats.*
- (h) **Failure to Report.** The penalty for failure to comply with the reporting requirements under this Section shall be Twenty-Five Dollars ((\$25.00). Each failure to report shall be regarded as a separate offense.
- (i) **Credit.** The credit under Section 79.10(9), *Wis. Stats.*, as it applies to taxable property, shall apply to the estimated fair market value of a mobile home. The Village Clerk-Treasurer shall reduce the owner's parking permit fee by the amount of any allowable credit. The Village Clerk-Treasurer shall furnish notice of all amounts for credits under this Subsection to the Wisconsin Department of Revenue as provided in Section 79.10(1m), *Wis. Stats.*
- (j) **County Operation Exception.** This Section shall not apply where a mobile home park is owned and operated by a county under the provisions of Section 59.52(16)(b), *Wis. Stats.*
- (k) **Tourists/Vacationists Exception.** No monthly parking permit fee shall be imposed for any space occupied by a mobile home accompanied by an automobile for an accumulating period not to exceed sixty (60) days in any twelve (12) months if the occupants of the mobile home are tourists or vacationists. Exemption certificates in duplicate shall be accepted by the Village Clerk-Treasurer from qualified tourists or vacationists in lieu of the monthly mobile home parking fee.

State Law Reference: Sec. 66.058(3)(c), (d), and (h), and (3m), *Wis. Stats.*

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### SEC. 7-4-6 LICENSE APPLICATION

Original application for a mobile home park license shall be filed with the Village Clerk-Treasurer. Applications shall be in writing, signed by the applicant and shall contain the name and address of the applicant, the location and legal description of the mobile home park, and the complete plan of the park.

State Law Reference: Sec. 66.058(4), *Wis. Stats.*

### SEC. 7-4-7 PLANS AND SPECIFICATIONS TO BE FILED

Accompanying and to be filed with an original application for a mobile home park shall be plans and specifications which shall be in compliance with all applicable Village ordinances and provisions of the Wisconsin Department of Health and Family Services. The Village Clerk-Treasurer after approval of the application by the Village Board and on completion of the work according to the plans shall issue the license. A mobile home development harboring only nondependent mobile homes as defines in Section 7-5-1 shall not be required to provide a service building.

State Law Reference: Sec. 66.058(5), *Wis. Stats.*

### SEC. 7-4-8 LIMITATIONS, RESTRICTIONS, AND REGULATIONS

Not more than one license for a mobile home park may be issued under this Chapter in each common school district within the Village. No mobile home park shall contain spaces for more than fifty (50) mobile homes, except that the Village Board may permit additional spaces on the following conditions:

- (a) The mobile home park has been in operation for at least one (1) year prior to the request for additional spaces;
- (b) The mobile home park complies with the requirements of this Chapter and other applicable ordinances; and
- (c) The licensee agrees to such reasonable limitations, restrictions, and regulations as to the use and occupancy of all spaces in such mobile home park as the Village Board believes are necessary to assure that the mobile home park development will not cause school costs to increase above the state average or will not cause an exceedingly difficult or impossible situation with regard to providing adequate and proper sewage disposal in the particular area..

State Law Reference: Sec. 66.058(2)(b), *Wis. Stats.*

### SEC. 7-4-9 DRAINAGE, SEWAGE, WATER, AND LIGHTING REQUIREMENTS

- (a) **Drainage.** Every mobile home park shall be located on a well drained site and shall be so graded and adequately drained as to eliminate collection of surface waters at any point in the mobile home park and drainage easements shall be obtained if necessary.
- (b) **Sewage.** Adequate provisions shall be made for the disposal of all sewage from the mobile home park into a municipal sanitary sewer.
- (c) **Water.** Where a public water supply is not available within the mobile home park, an adequate supply of pure water for drinking and domestic purposes shall be provided in an amount sufficient to care for the needs of the maximum number of persons which can be accommodated in such mobile home park and shall be installed in compliance with plumbing and well codes, and shall be approved by the state Board of Health.

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- (d) **Lighting.** All entrances, exits, lanes, and driveways between rows of trailers used or occupied in any mobile home park shall be lighted by electric lighting.

State Law Reference: Sec. 66.058(2)(b), *Wis. Stats.*

### **SEC. 7-4-10 LOT, PARKING, AND DRIVEWAY REQUIREMENTS**

Each mobile home park shall have the following lots, parking area, and driveway requirements: Each mobile home shall be located on a lot of not less than three thousand five hundred (3,500) square feet with a minimum four hundred thirty (430) square feet for off-street parking within a reasonable distance of the mobile home lot. Each double mobile home shall be located on a lot of not less than nine thousand (9,000) square feet with a minimum width of seventy-five (75) feet, less six hundred (600) square feet for off-street parking within a reasonable distance of the mobile home lot.

State Law Reference: Sec. 66.058(2)(b), *Wis. Stats.*

### **SEC. 7-4-11 YARD REQUIREMENTS**

Each mobile home park shall be completely surrounded, except for permitted entrances and exits, by a yard, in addition to all other required yards and open spaces, which shall not be less than fifteen (15) feet wide.

State Law Reference: Sec. 66.058(2)(b), *Wis. Stats.*

### **SEC. 7-4-12 CONDITIONS INSURED**

Rules and regulations shall be prescribed and enforced by licensee of mobile home park so as to insure:

- (a) That the park shall be kept and maintained in a neat, slightly, and orderly manner;
- (b) That no public or private nuisance may be kept or maintained in the park;
- (c) That no mobile home shall be used for illegal or immoral purposes;
- (d) That no mobile home shall be used for other than residential purposes or by more than one person, whether child or adult, for each one hundred twenty-five (125) square feet of floor area thereof; and
- (e) That no more than one family unit shall occupy any one mobile home.

State Law Reference: Sec. 66.058(2)(b), *Wis. Stats.*

### **SEC. 7-4-13 PARK REGISTER**

Each mobile home park shall maintain a register for the registration of all occupants, which register shall contain information as follows:

- (a) Name and address of each occupant;
- (b) Trailer license number and manufacturer's name;
- (c) Automobile license number and name and make of automobile;
- (d) Number of site to which assigned;
- (e) Last place of location;
- (f) Date of arrival; and
- (g) Date of departure.

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State Law Reference: Sec. 66.058(2)(b), *Wis. Stats.*

### **SEC. 7-4-14 MOBILE HOME OUTSIDE PARK**

No mobile home shall be used or kept for dwelling purposes within the Village outside of a mobile home park, except that in the event a principal residential dwelling shall be damaged by fire or other casualty, a building inspector may issue a permit for the use of a mobile home as a temporary dwelling for a period of six (6) months provided that:

- (a) An application has been made for a building permit to rebuild or restore the damaged or destroyed dwelling;
- (b) The parcel of land shall be of sufficient size to accommodate a mobile home during the period of construction and the mobile home location shall not constitute a public nuisance;
- (c) Adequate provision has been made for water, sewage disposal, and other health provisions;
- (d) A building inspector may, for good cause, extend the period of time the permit is valid, but not to exceed an additional six (6) months; and
- (e) There shall be no fee for issuance of the permit nor any extension thereof.

State Law Reference: Sec. 66.058(2)(b), *Wis. Stats.*

### **SEC. 7-4-15 PENALTY FOR VIOLATION**

Where a penalty is not provided for in this Chapter, violation of any provision of this Chapter shall subject the violator to the general penalty provided in Section 1-1-6(a) of this Code of Ordinances.

State Law Reference: Sec. 66.058(2)(b), *Wis. Stats.*

# TITLE 7 Licensing and Regulation – Village of Gays Mills

## CHAPTER 5

### Licensees to Pay Local Claims

7-5-1	Licensees Required To Pay Local Taxes, Assessments and Claims
7-5-2	Issuance of Licenses

#### **SEC. 7-5-1 LICENSEES REQUIRED TO PAY LOCAL TAXES, ASSESSMENTS AND CLAIMS.**

- (a) **Nonpayment of Taxes or Forfeitures.** The Village shall not issue or renew any license to transact any business within the Village of Gays Mills:
  - (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 or other claims owed the Village; or
    - b. Of any forfeiture resulting from a violation of any Village Ordinance.
- (b) **Applicability.** This Section shall apply to licenses issued pursuant to the provisions of Title 7 of this Code of Ordinances, except Chapters 1 and 5.
- (c) **Denial of Renewal.** An application for renewal of a license subject to this Chapter shall be denied pursuant to the provisions of Subsection (a) only following notice and opportunity for hearing as provided by Subsection (d) below.
- (d) **Hearing.** Prior to any denial of an application for renewal of a license, including denials pursuant to Subsection (a), the applicant shall be given notice and opportunity for a hearing as hereinafter provided:
  - (1) With respect to licenses renewable under Chapter 2 of Title 7 of this Code of Ordinances, notice and opportunity for hearing shall be as provided by Section 125.12(3), *Wis. Stats.*, as amended from time to time.
  - (2) With respect to other licenses, the Village Board or its assignee shall notify the applicant in writing prior to the time for renewal of the license of the Village's intention not to renew the license and shall provide the applicant with an opportunity for hearing. The notice shall state the reasons for the intended action and shall establish a date, not less than three (3) days nor more than ten (10) days after the date of the notice on which the applicant shall appear before the Village Board. If the applicant shall fail to appear before the Board on the date indicated on the notice, the Board shall deny the application for renewal and give notice of the denial to the applicant. 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 shall 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 shall, upon request, be provided a written transcript of the hearing at the applicant's expense. If the Village Board determines the applicant shall not be entitled to renewal pursuant to Subsection (a), the application for renewal shall be denied.

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### SEC. 7-5-2 ISSUANCE OF LICENSES.

Except as otherwise provided in this Title or by State law:

- (a) **Application.** Applications for licenses under this Title shall be made to the Village Clerk-Treasurer on a form furnished by the Village. Such application shall contain such information as may be required by the provisions of this Chapter or as may be otherwise required by the Village Board.
- (b) **Payment of License Fee.** License fees imposed under this Title shall accompany the license application. If a license is granted, the Village Clerk-Treasurer shall issue the applicant a receipt for his/her license fee.
- (c) **Refund of License Fee.** No fee paid shall be refunded unless the license is denied.
- (d) **Terms of Licenses.** All licenses issued hereunder shall expire on June 30, in the year of issuance unless issued for a shorter term, when they shall expire on midnight of the last effective day of the license, or unless otherwise provided by these Ordinances or State law.
- (e) **Form of License.** All licenses issued hereunder shall show the date of issue, the activity licensed, and the term of the license, and shall be signed by the Village Clerk-Treasurer and be impressed with the Village Seal, if any.
- (f) **Record of Licenses.** The Village Clerk-Treasurer shall keep a record of all licenses issued.
- (g) **Display of Licenses.** All licenses hereunder shall be displayed upon the premises or vehicle for which issued, or if carried on the person shall be displayed to any officer of the Village upon request.
- (h) **Compliance With Ordinances Required.** It shall be a condition of holding a license under this Title that the licensee comply with all ordinances of the Village. Failure to do so shall be cause for revocation of the license.
- (i) **Transfer of Licenses.** All licenses issued hereunder shall be personal to whom issued and shall not be transferred except with the consent of the Board.
- (j) **Consent to Inspection.** An applicant for a license under this Title consents to the entry of police or authorized representatives of the Village upon a licensed premises at all reasonable hours for the purposes of inspection and search, and consents to removal from the premises and introduction into evidence in prosecutions for violations of this Title all things found therein in violation of this Title or State law.

# TITLE 7 Licensing and Regulation – Village of Gays Mills

## CHAPTER 6

### TRANSIENT MERCHANTS AND VENDORS

- 7-6-1 Transient Merchants' License
- 7-6-2 Definitions
- 7-6-3 Exemptions
- 7-6-4 Registration
- 7-6-5 Documentation
- 7-6-6 Fee
- 7-6-7 Permit
- 7-6-8 Regulation
- 7-6-9 Revocation
- 7-6-10 Temporary Vending Permits For Special Events
- 7-6-11 Penalties

#### SEC. 7-6-1 TRANSIENT MERCHANTS' LICENSE.

**License Required.** It shall be unlawful for any transient merchant to engage in sales within the Village of Gays Mills without being registered for that purpose as provided herein.

**SEC. 7-6-2 DEFINITIONS.** As used in this chapter, the following terms shall have the meanings indicated:

- (a) **“Charitable organization”** As defined by §§440.41 and 440.42, Wis. Stats.
- (b) **“Clerk”** The village clerk for the Village of Gays Mills.
- (c) **“Merchandise”** Includes personal property of any kind, and shall include 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.
- (d) **“Permanent merchant”** Any person who, for at least one year prior to the consideration of the application of this chapter to said merchant:
  - (1) Has continuously operated an established place of business in the local trade area among the communities bordering the place of sale; or
  - (2) Has continuously resided in the local trade area among the communities bordering the place of sale and now does business from his/her residence.
- (e) **“Special event”** Any occasion designated as such by the Village Board, including but not limited to concerts, farmers' market day(s), flea market event, craft enthusiasts' gatherings, fairs, shows, exhibitions, and village-wide celebrations or festivals taking place within the Village.
- (f) **“Transient merchant”** 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 section, sale of merchandise includes a sale in which the personal services rendered upon or in connection with the merchandise constitutes 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.
- (g) **“Vendor”** Any person, entity or organization who exhibits, displays, sells, or offers for sale such products from a stand, wagon, handcart, pushcart, motor vehicle, table, display unit, or his or her person. A vendor includes any street vendor or transient merchant.

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**SEC. 7-6-3 EXEMPTIONS.** The following shall be exempt from all provisions of this chapter:

- (a) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes.
- (b) Any person selling merchandise at wholesale to permanent merchant in such merchandise.
- (c) Any person selling agricultural products that the person has grown at an established Farmer's Market.
- (d) 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 his or her regular course of business.
- (e) Any person who has an established place of business where the merchandise being sold is offered for sale on a regular basis and in which the buyer has initiated contact with, and specifically requested, a home visit by said person.
- (f) Any person who has had, or one who represents a company that has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer.
- (g) Any person selling or offering for sale a service unconnected with the sale or offering for sale of merchandise.
- (h) Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law.
- (i) Charitable organizations, provided that such charitable organization is registered under §440.41, Wis. Stats.
- (j) Any person who claims to be a permanent merchant, but against whom complaint has been made to the Village Clerk that such person is a transient merchant, provided that there is submitted to the Village Clerk proof that such person has leased for at least one year, or purchased, the premises from which he/she has conducted business in the market area for at least one year prior to the date the complaint was made.
- (k) Transient merchants while authorized to do business at special events authorized by the Village Board.

**SEC. 7-6-4 REGISTRATION.** Applicants for registration must complete and return to the Village Clerk a registration form furnished by the Village Clerk which shall require the following information:

- (a) Name, permanent address and telephone number, and temporary address, if any.
- (b) The 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.
- (c) The address and telephone number from which business will be conducted, if any.
- (d) The nature of the business to be conducted and a brief description of the merchandise, and any services offered.
- (e) Proposed methods of delivery of merchandise, if applicable.
- (f) The place where the applicant can be contacted for at least seven days after leaving the Village of Gays Mills.

**SEC. 7-6-5 DOCUMENTATION.** Applicants shall present to the Village Clerk for examination:

- (a) A valid driver's license or other government-issued photo identification.
- (b) A state certificate of examination and approval from the Sealer of Weights and Measures where the applicant's business requires use of weighing and measuring devices approved by state authorities.
- (c) Any transient merchant involved in the handling of food shall present a temporary food establishment permit. Said temporary food establishment permit must be valid through the date(s) of the event for which a permit is requested.

**SEC. 7-6-6 FEE.** At the time of registration, a nonrefundable fee in the amount of \$50.00 shall be paid to the Village Clerk.



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### SEC. 7-6-7 PERMIT.

- (a) The applicant shall sign a statement appointing the Village Clerk his/her agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant, in the event the applicant cannot, after reasonable effort, be served personally.
- (b) Within seven business days of payment of the required fee and the signing of said statement, the Village Clerk shall register the applicant as a transient merchant and date the entry. Said registration shall be valid for a period of six months from the date of entry and shall be subject to subsequent revocation under the provisions of §7-6-9.
- (c) All transient merchant permits shall include the signatures of the applicant and the Village Clerk.

### SEC. 7-6-8 REGULATION.

#### (a) Prohibited practices.

- (1) A transient merchant shall be prohibited from calling at any dwelling or other place between the hours of 9:00 p.m. and 9:00 a.m., except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors," or words of similar meaning; calling at the rear door of any dwelling place; or remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.
- (2) A transient merchant shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity, or characteristics of any merchandise offered for sale, the purpose of his/her visit, his/her identity or the identity of the organization he/she represents. A charitable organization transient merchant shall specifically disclose what portion of the sale price of the merchandise being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the merchandise.
- (3) No transient merchant shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.
- (4) No transient merchant shall make any loud noises or use any sound-amplifying device to attract customers if the noise produced is capable of being plainly heard outside a one-hundred-foot radius of the source.
- (5) No transient merchant shall allow rubbish or litter to accumulate in or around the area in which he/she is conducting business.

#### (b) Disclosure requirements.

- (1) After the initial greeting and before any other statement is made to a prospective customer, a transient merchant shall expressly disclose his/her name, the name of the company or organization he/she is affiliated with, if any, and the identity of merchandise or services he/she offers to sell.
- (2) If any sale of merchandise is made by a transient merchant, or any offer for the later delivery of merchandise is taken by the seller, the buyer shall have the right to cancel said transaction if it involves the extension of credit or is a cash transaction of more than \$25. In accordance with the procedure set forth in §423.203, Wis. Stats., the seller shall give the buyer two copies of a typed or printed notice of that fact [§§423.203(1)(a),(b) and (c), and (3), Wis. Stats.].
- (3) If the transient merchant takes a sales order for the later delivery of merchandise, he/she shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement; the amount paid in advance (whether full, partial, or no advance payment is made); the name, address and telephone number of the seller; the delivery or performance date; and whether a guarantee or warranty is provided and, if so, the terms thereof.

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- (4) A transient merchant must have the Village of Gays Mills transient merchant identification card in plain view on the front of his/her person with the name unobstructed at all times. Failure to do so will result in revocation of the permit in addition to penalties set forth in §7-6-11.

### **SEC. 7-6-9 REVOCATION.**

- (a) Registration may be revoked by the Village Clerk if the registrant made any material omission or materially inaccurate statements in the application for registration; made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in transient sales; violated any provision of this chapter; or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in selling. The permit may also be revoked if the permittee conducts solicitation activities contrary to the provisions contained in the permit or in such a manner as to create a public nuisance, constitute a breach of the peace or endanger the health, safety, or general welfare of the public.
- (b) Written notice of such revocation, and the reason or reasons therefor, shall be served personally or by mailing the same to the permit holder at the named premises on the original application.
- (c) Appeal from revocation shall be made to the Village Board of Trustees through the appeal procedure provided under the provisions of Title 4 of this Code.
- (d) No applicant to whom a license has been refused or whose license has been revoked shall make further application until at least six (6) months have lapsed since the last previous rejection or revocation, unless he/she can show that the reason for such rejection or revocation no longer exists.

### **SEC. 7-6-10 TEMPORARY VENDING PERMITS FOR SPECIAL EVENTS.**

- (a) Any vendor wishing to conduct business at a special event shall:
  - (1) Apply to the Village Clerk for a temporary vending permit.
  - (2) Submit the application to the Village at least 15 working days prior to the beginning of the event for which the permit is sought.
  - (3) Disclose any instances where vendor was denied a permit or prosecuted for any criminal or ordinance violation related to the sale of goods.
- (b) The temporary vending permit shall be valid for a period of six months from the date of entry.
- (c) Any vendor to whom a temporary vending permit is granted shall prominently display the permit during the special event.
- (d) Any vendor who will be selling or distributing food shall present a temporary food establishment permit at the time of applying for a temporary vending permit. Said temporary food establishment permit must be valid through the date(s) of the event for which a permit is requested.
- (e) The Village of Gays Mills is exempt from all temporary vending permit requirements for special events but shall comply with any applicable temporary food establishment permit requirement.
- (f) At the time of registration, a nonrefundable fee shall be paid. The Village Board by resolution will determine fee.
- (g) Committee designated by Village Board may determine exemption of fees for local non-profit organizations.

### **SEC. 7-6-11 PENALTIES.**

Any person who shall violate any provision of this chapter or any rule or regulation made under this chapter shall be subject to a forfeiture of not less than \$20.00 nor more than \$100.00 together with court costs and assessments. Each day of violation shall constitute a separate offense. The bond amount for such violations shall be \$35.00 per day.

# TITLE 7 Licensing and Regulation – Village of Gays Mills

## CHAPTER 7

### Silica Sand Mining Licensing

- 7-7-1 Finding, Purpose and Authority
- 7-7-2 Applicability and Scope
- 7-7-3 Definitions
- 7-7-4 License Required
- 7-7-5 Procedures for Applying for an Operator's License
- 7-7-6 License Application
- 7-7-7 Minimum Standards of Operation
- 7-7-8 Annual Report and License Renewal
- 7-7-9 Inspection, Enforcement, Procedures and Penalties
- 7-7-10 Financial Assurance
- 7-7-11 Damages to Private Water Supplies
- 7-7-12 Severability, Interpretation, and Abrogation
- 7-7-13 Mining Agreement

#### 7-7-1 FINDING, PURPOSE AND AUTHORITY

(a) **Findings.** Nonmetallic mining operations, including silica sand mining operations, while a vital component of our state and local economy, can have both direct and indirect adverse impacts. Studies have documented that, depending on the size of the mining operation, the type of geological deposit being mined and the manner and methods of mining and processing used, nonmetallic mining can have adverse impacts on groundwater and surface water, and can generate harmful levels of dust and noise particularly if blasting and crushing operations, or washing and drying processes, are undertaken. Silica sand mining sites can have negative impacts on the landscape and aesthetics if not properly screened, and can present safety concerns to members of the public if not properly secured. Silica sand mining operations can also generate high volumes of truck traffic that can present safety issues and concerns for the proper and timely maintenance of Village roads, and exposure to nuisances or noise and dust. While certain aspects of mining operations are subject to state or federal regulation, there is no comprehensive state or federal regulation of silica sand mining operations. Many aspects of silica sand operations are left unregulated with potential adverse impacts on public health, safety and welfare of the residents of the Village.

(b) **Purpose.** The purpose of this Ordinance is to provide minimum standards for large silica (frac) sand mining operations including processing facilities in the Village, and to require licenses for silica sand mining operators and facility operators in order to protect public health and safety, to minimize or prevent adverse off-site impacts from on-site and off-site operations, and to promote the general welfare of the people and communities within the Village of Gays Mills

(c) **Authority.** This Ordinance is adopted by the powers granted to the Village of Gays Mills under Wis. Stat. § 61.34, its authority under § 66.0415, and other authority under the statutes. Any amendment, repeal or recreation of the statutes relating to this Ordinance made after the effective date of this Ordinance are incorporated into this Ordinance by reference on the effective date of the amendment, repeal or recreation.

#### 7-7-2 APPLICABILITY AND SCOPE

This Ordinance shall apply to all silica sand mining operations and mine sites including processing facilities

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within the Village of Gays Mills where more than 10 acres of total affected acreage occurs over the life of the mine or processing facility, and does not apply to activities set forth in (a) through (e) below.

- (a) Excavations or grading by a person solely for domestic or farm use at that person's residence or farm.
- (b) Excavations or grading conducted for the construction, reconstruction, maintenance or repair of a highway, railroad, or any other transportation facility where the excavation or grading is entirely within the property boundaries of the highway, railroad or other transportation facility.
- (c) Grading conducted for preparing a construction site or restoring land following a flood or natural disaster.
- (d) Excavations for building construction purposes conducted on the building site.
- (e) Removal from the earth of products or commodities that contain only minor or incidental amounts of silica sand, such as commercial sod, agricultural crops, ornamental or garden plants, forest products, Christmas trees or plant nursery stock.

### 7-7-3 DEFINITIONS

- (a) "Adjoining landowner" means any property within 1/2 mile of the proposed mine site regardless of whether there is a residence or structure on the property.
- (b) "Buffer" means an undisturbed vegetated area measured from the mine site border into the mine site, in which no silica sand mining activities, structures or roads can occur except for the construction and maintenance of a vegetated berm.
- (c) "Heavy Vehicle" means a vehicle over 48,000 pounds.
- (d) "Landowner" means the person or entity who has title to land in fee simple or who holds a land contract for the land.
- (e) A "mine site" or "site" means land from which silica will be extracted for sale or use by the Operator; all land on which is or will be located any structures, equipment, storage facilities, stockpiles, washing, drying, processing or screening facilities, private roads or haulage ways associated with silica sand mining operation regardless of whether the materials come from on-site or off-site; and all contiguous lands to the silica sand mining operation under common ownership or control of the owner or Operator.
- (f) "Silica sand" means sand having a very high percentage of silicon dioxide.
- (g) "Silica sand mining" means any or all of the following:
  - (1) Extraction from the earth of silica sand for off-site use or sale, including drilling and blasting as well as associated activities such as excavation, grading and dredging of such materials.
  - (2) Manufacturing or industrial processing operations that may involve the use of

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equipment for the crushing, screening, separation, washing, drying or blending of silica sand obtained by extraction from the mining site, or from materials transferred from off-site.

- (3) Manufacturing processes aimed at producing silica sand products for sale or use by the Operator.
  - (4) Stockpiling of silica sand or silica sand products for sale or use off-site and stockpiling of waste materials.
  - (5) Transport of the extracted silica sand, finished products or waste materials to or from the extraction site and/or processing site(s).
  - (6) Disposal of waste materials.
  - (7) Reclamation of the extraction site.
- (h) "Operator" means any person who is engaged in, or who has applied for a license to engage in silica sand mining whether individually, jointly or through subsidiaries, agents, employees, contractors, or subcontractors.
- (i) "Operator's license" or "license" means the license required of mining operators in this Ordinance to undertake silica sand mining in the Village of Gays Mills.
- (j) "Village" means the Village of Gays Mills.
- (k) "Village Board" means the Village Board of the Village of Gays Mills.
- (l) "Waste Material" means the non-marketable by-product that results directly from or is displaced by extraction or that is a by-product of a manufacturing process that is scheduled for disposal at the extraction site or some other site as part of a reclamation plan.

### 7-7-4 LICENSE REQUIRED

- (a) License Requirement. Except as set forth in sub. (f), no person shall operate a silica sand mine or processing facility within the scope of this Ordinance in the Village of Gays Mills without first obtaining an Operator's license from the Village Board.
- (b) License Term.
- (1) An Operator's license shall be granted for a period of three years commencing on January 1 and ending on December 31. For the first year of operation under this Ordinance, the Operator's license will extend from the date of issuance until the second December 31 of the second calendar year after operations have been started.
  - (2) An Operator's license may be renewed as set forth in Section 8.
- (c) License Amendment. If the Village has issued an Operator's license, the Operator may request an amendment to that license during the license term, using the same process as the

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original license application.

- (d) License Transfer. An Operator's license may not be assigned or transferred without the express written consent of the Village.
- (e) License Revocation. An Operator's license may be revoked under the procedures in Section 7-6-9.
- (f) Non-metallic sand and gravel mines in operation on and prior to the 7<sup>th</sup> day of November 2012 shall not be required to register or apply for a license under this ordinance, as long as said mine operates under the original reclamation plan approved by the Crawford County Land Conservation Department and the reclamation plan is not modified in any way. If the reclamation is modified, the mine is considered a new operation and is subject to the licensing requirements of this ordinance.

### **7-7-5 PROCEDURES FOR APPLYING FOR AN OPERATOR'S LICENSE**

- (a) Application Form. The Application Form for a license to mine in the Village of Gays Mills shall be available from the Village Clerk.
- (b) Application Submittal. The applicant shall submit five (5) copies of the Application Form and all required documentation required under Section 7-6-6 to the Village Clerk accompanied by the payment of the appropriate fees as set forth herein. The Application Form shall be signed by the Operator and by the landowner, provided the landowner is a person other than the Operator.
- (c) Reimbursement of Fees and Costs.
  - (1) Reimbursable Cost. The Village Clerk and other Village staff may expend time in the review and processing of Operator's Licenses. The Village may also retain the services of professional consultants in reviewing, processing and acting upon Operator's License applications, including but not limited to engineers, attorneys, planners, environmental specialists, and other consultants with skills relevant to Operator Licensing issues arising under this Ordinance. Any applicant for an Operator's License shall reimburse the Village for staff time expended, and shall reimburse the Village for the cost to the Village charged by any consultant retained by the Village, in the administration, investigation, and processing of such Operator's License application.
  - (2) Ordinance Preparation Costs.
    - (i) Following the initial adoption of this Ordinance, the Village Board shall determine the total Village Board, Village Plan Commission, professional and staff costs the Village incurred in the development of this Ordinance, including the stipends for Village Board and Plan Commission meeting time related to the ordinance preparation, the actual cost of legal and engineering services paid by the Village, and the cost to the Village of the Village Clerk's time spent in the development of this Ordinance.

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- (ii) Each applicant for an operator's license shall pay its proportionate share of the cost of this Ordinance, as described in this section. The first applicant for an Operator's license under this Ordinance shall reimburse the Village for full cost of this Ordinance. The first applicant, and subsequent applicants, shall have the opportunity to be reimbursed for part of the cost from subsequent applicants, so that at any given time, the total cost of this Ordinance will have been paid by all applicants.
  - (iii) By way of example only, at the time of the first application, the first applicant would pay the entire amount of the Ordinance to the Village. At the time of the second application, the total cost would be reallocated between the first and second applicants, so that half of the fee would be reimbursed to the first applicant.
  - (iv) Neither the Village nor any applicant shall recover interest in connection with any costs paid under this section. Payments made at the time of application shall be non-refundable, notwithstanding the disposition of the application.
- (3) Preliminary Cost Reimbursement Agreement. At the time an application for an Operator's License is filed with the Village, the applicant shall execute for the benefit of the Village an agreement agreeing to pay and providing adequate security guaranteeing payment of the cost of the investigation, review and processing of the application, including without limitation by way of enumeration, legal, engineering, acoustical, planning, environmental, and staff administrative costs. The agreement and the security shall be in form and substance acceptable to the Village. The Village shall not begin processing the application until the preliminary cost reimbursement agreement is approved and signed and until the required security is provided to the Village. The Village may accept an initial deposit to begin permit processing and to provide an estimate to the applicant of anticipated costs, but it shall not incur processing costs beyond that for which a deposit or other security has been approved.
- (d) Initial Review by the County Land Conservation Department.
- (1) Preliminary Review. The Village Clerk shall forward the application to the Land Conservation Department for initial review to determine if additional information or expertise is necessary to properly evaluate the application. If no additional information or expertise is deemed necessary the Land Conservation Department proceed to schedule a final review at its next regularly scheduled meeting.
  - (2) Additional Information. The Land Conservation Department may request the applicant to submit additional information if the Land Conservation Department determines that the application is incomplete. The Land Conservation Department may also retain the services of an engineering firm or other qualified person with appropriate expertise ("retained expert") to review the application and report to the Land Conservation Department whether additional information is required for review of the application and to determine whether the application meets the standards of this Ordinance.

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- (3) Retained Expert Report. Once the applicant has submitted any additional information and has paid the fee in the amount charged, the retained expert shall report to the Land Conservation Department on whether the application meets the requirements of this Ordinance.
  - (4) Final Review. The Land Conservation Department shall schedule the application for final review at its next regularly scheduled meeting following its completion of review under par (1) or (3).
  - (5) Recommendation to the Village Board. Upon completion of its review, the Land Conservation Department shall make findings of fact and either recommend that the Village Board grant the applicant a permit to mine with or without restrictive conditions of use or recommend that the Village Board deny the application for a permit to mine. The Land Conservation Department will make every reasonable effort to expedite their review of the application.
- (e) Decision by the Village Board.
- (1) Notice and Hearing. Village Clerk shall place the Land Conservation Department's recommendation on the agenda for the next regular meeting of the Village Board. If a special meeting is warranted, the applicant shall pay the additional fees incurred for the special meeting. The Village Board shall set a date for a public hearing and give Class III public notice in the Village's official newspaper if publication is required for Village notices. In the event there is no newspaper published in the Village and no publication is required because the Village posts its meeting notices, the notice shall be posted in at least three (3) designated posting places at least three (3) full weeks prior to the date scheduled for the hearing, with the notice mailed to all adjoining landowners at least fifteen (15) days prior to the date scheduled for the public hearing. At the public hearing, the Village Board shall take public comments on the proposed mine license.
  - (2) Village Board Decision. Following the public hearing, the Village Board may take immediate action or set a date for the meeting at which time they shall make a final decision on the Operator's license. If a special meeting is warranted, the applicant shall pay the additional fees incurred for the special meeting. The Village Board shall review the retained expert's report as well as public comments made at the public hearing. The Village Board shall grant the license if it determines that the operation of the mine including any processing facility will be consistent with the minimum standards and the purposes of this Ordinance. If the Village Board denies the license, the applicant may request a hearing under the provisions of Section 7-6-9 subs. (c).

### 7-7-6 LICENSE APPLICATION

All applicants for a silica sand mining Operator's license shall submit the following information:

- (a) Ownership Information,



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- (1) The name, address, phone numbers, and e-mail address of the Operator of the silica sand mining operation.
  - (2) The name, address, phone numbers, and e-mail address of all owners or lessors of the land on which the silica sand mining operation will occur.
  - (3) If the silica sand mining operation is subject to a lease, a copy of a fully executed lease and/or agreement between the landowner and the Operator who will engage in mining operations on the proposed site.
  - (4) Proof that all property taxes on the proposed mine site are current.
- (b) Site Information and Maps.
- (1) Parcel identification numbers of all contiguous parcels owned by the same landowner/lessor on which the silica sand mining operation will be located. Certified Survey Maps shall be provided of any of those parcels as may be available at the time of application.
  - (2) An aerial photo of the proposed site at a scale of not less than 1 inch equals 660 feet signed by both the Operator and the landowner of the mine site.
  - (3) A topographic map of the mine site extending 1/2 mile beyond the site boundaries at contour intervals no wider than 10 feet showing the boundaries of the site, the location and total acreage of the site, and the name of all roads within one mile of the site.
  - (4) The location within the site of all existing buildings and other structures, equipment, stockpiles, storage and parking areas.
  - (5) A map on which all residential agricultural and municipal wells within 1/2 mile of the boundaries of the site in all directions are marked and given a numerical identification of the location.
  - (6) The location and name of all surface waters, including lakes, private or public ponds, streams (including intermittent streams and headwaters), drainage ditches, wetlands, drainage patterns and other water features on the site and within 1/2 mile of the site. The base flow of the surface waters within 1/2 mile of the mine site as determined at the time of application.
  - (7) The gradient and depth of the groundwater table shall be determined by existing wells within 1/2 mile of the mine site or other existing data.
  - (8) A description of the distribution, depth and type of topsoil not only of the area of the site currently proposed for mining and for which an Operator's license application is being submitted, but also of the entire acreage of land contiguous with the proposed mine site that is owned by the same landowner/lessor, as well as the geological composition and depth and width of the silica sand deposit.

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- (9) A map identifying the location of all other non-contiguous sites within the Village of Gays Mills and adjacent villages and/or towns, if any, that will contribute extracted material to the same processing facility to which the site for which the applicant seeks a license will also contribute.
- (c) Operation Plan.
- (1) Dates of the planned commencement and cessation of the operation of the mine and the processing facilities.
  - (2) Description of mining methods, machinery and equipment to be used for extraction and processing of the extracted material, and the sequence of operations.
  - (3) Estimated volume of material to be extracted over the life of the mine and for the next calendar year. Estimated volume of material to be processed over the life of the processing facility and for the next calendar year.
  - (4) Location of road access points. The proposed location within the site of all buildings and other structures, equipment, stockpiles, storage and parking areas.
  - (5) Identification of all proposed off-site trucking routes, together with the frequency of traffic and the common schedule of travel to be used for transportation extracted materials or products to or from the site.
  - (6) A water budget, including an estimate of the amount of daily water use, water sources, and methods for disposing of water used or falling on the site, including methods used for infiltration and control of run-off.
  - (7) A listing of any hazardous materials, including fuel supplies that will be stored on-site and a description of measures to be used for securing and storing these materials. The Operator shall have a plan for responding to spills of any hazardous materials on the site.
  - (8) A listing of all flocculants and other chemicals used in the manufacturing or processing operations or in controlling dust, and a detailed description of expected releases and final disposal of each.
- (d) Information Demonstrating Compliance with Minimum Standards.
- (1) The Operator shall provide the information necessary to demonstrate that the mining operation will comply with the minimum standards in Section 7-6-7.
  - (2) For mining operations commencing after the effective date of this Ordinance, the Operator shall also provide information establishing baseline conditions at the site before operations commence, including the groundwater elevation across the site, groundwater quality at the site for lead, arsenic, turbidity, total suspended solids, chlorides, nitrates, specific conductivity and any chemical or residual of the chemical used as a flocculent and any other toxic substance that may reasonably be believed to be present in the area or in the type of deposit from which the extraction will be

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made, and the base flow of surface waters within 1/2 mile of the site.

- (3) For mining operations and processing facilities commencing after the effective date of this Ordinance, the Operator shall also provide information establishing background conditions for air quality at the site before operations commence.
- (e) Special Exceptions. The applicant may request a special exception from the application requirements of this section if it can demonstrate that the information required can be provided by alternative means or is not necessary for an evaluation of the particular mining operation, and that the public health, safety and welfare will not be adversely affected thereby.

### 7-7-7 MINIMUM STANDARDS OF OPERATION

The Village Board may grant a license to mine if the applicant can demonstrate that the following minimum standards of operation will be met:

- (a) General Standards.
  - (1) The Operator shall stake or otherwise mark the borders of the entire site and shall secure the site by appropriate measures which can include fencing or other alternative measures consistent with mine safety and security.
  - (2) The Operator shall demonstrate compliance with all of the other provisions of this Ordinance and other applicable Village Ordinances.
  - (3) The Operator shall demonstrate that all applicable federal, state and local permits and approvals required for the silica sand mining operation have been or will be obtained prior to commencement of operation. The Operator shall demonstrate this by submitting a copy of all permits, approvals, or waivers of permits to the Village prior to commencing operations.
  - (4) If blasting permits are required by any Village ordinance, the Operator shall have obtained a blasting permit from the Village for any blasting operation.
  - (5) The Operator shall provide notice to the Village of any notices of violation, citations, or other enforcement actions taken by any other governmental body against the mining operation within the Village within 15 days of receiving such notice from the governmental body.
- (b) Buffer Areas
  - (1) Except as noted below, the Operator shall provide a buffer area of a minimum of 50 feet along bordering property lines and public roadways. The buffer area shall provide a setback of 660 feet to the location of any dwelling unless the landowner consents to a lesser distance but not less than 50 feet. For example, if a dwelling is located 100 feet from the mine site property boundary, the buffer area on the mine site would be 560 feet so that the distance to the dwelling would be 660 feet. If a berm is placed within the buffer area and it lies along a public roadway, bottom edge of the berm shall be a minimum of 10 feet from the edge of any road side ditch and

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shall be vegetated to minimize erosion entering the ditch.

- (2) The Operator shall screen the mining operations from public view to the maximum extent practicable through the use of berms, additional setbacks or other measures.

### (c) Hours of Operation

- (1) The Operator shall limit normal hours of operations on-site to 14 hours a day Monday through Friday during daylight hours and not earlier than 5:00 a.m. and not later than 9:00 p.m. and on Saturday during daylight hours and not earlier than 5:00 a.m. and not later than 5 p.m. to minimize off-site impacts to residents. Operations on-site shall not occur on Sundays or the following holidays: January 1, Memorial Day, July 4, Labor Day, Thanksgiving Day and December 25. The Operator may submit a plan for extended hours as a special exception, if it can demonstrate that additional hours are necessary for the mining operation and it would be consistent with public health, safety and welfare.
- (2) Operation of Heavy Vehicles leaving the mining site shall be limited to Monday through Friday during daylight hours and not earlier than 6:00 a.m. and not later than 8:00 p.m. and on Saturday during daylight hours and not earlier than 6:00 a.m. and not later than 12:00 noon. There shall be no operation of Heavy Vehicles leaving the mining site on Sunday or the above-named holidays. The Operator may submit a plan for extended hours as a special exception, if it can demonstrate that additional hours are necessary for the mining operation and it would be consistent with public health, safety and welfare.
- (3) The Operator shall schedule Heavy Vehicles to and from the mining site in a manner to avoid interfering with the safety of children being taken or returned from school, the safety of slow-moving farm vehicle traffic, or the safety of residents and commuters at times when traffic volume from commuters going to and from work is highest.

### (d) Control of Light and Noise

- (1) The Operator shall limit night lighting on-site, to that which is minimally necessary for security and worker safety. Every effort consistent with the legal requirements for safety shall be made to minimize illumination of the night sky and neighboring properties. At a minimum such measures shall include the following:
  - (i) The use of full cutoff shrouds on all lights.
  - (ii) Portable lighting shall be used only as necessary to illuminate temporary work areas.
  - (iii) The use of berms of sufficient height coupled with other methods of visual screening to block light from neighboring properties.
  - (iv) The design and location of access roads to minimize lights from traffic and operations to neighboring properties.

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- (2) The Operator shall control off-site noise levels to the maximum extent practicable to avoid adverse impacts to adjoining landowners. The noise levels at the boundaries of the mining or processing site shall not exceed 60dB. The use and regulation of compression release engine brakes, commonly known as jake-brakes is prohibited except for emergencies.
- (e) Control of Air Pollution
- (1) Regardless of the actual monthly production of the silica sand mine, the Operator shall cover all trucks hauling sand with secured tarps, and utilize all relevant dust control measures specified in Wis. Admin. Code §NR 415.075. Additionally, the Operator shall have an established protocol for additional dust control measures when the National Weather Service has issued a high wind warning for the area.
  - (2) Air monitors.
    - (i) If an applicant is applying for an Operator's license for a mining operation that includes a frac-sand processing plant, the Operator shall be required to monitor the ambient level of airborne particulate matter of 2.5 microns in size (PM2.5) and Total Suspended Particulates (TSP) as measured by the method described in Appendices L and B, respectively, of 40 C.F.R. part 50 (2011) or a method approved in writing by the Village. The type and number of monitors needed, the location of the monitors, and frequency and duration of the monitoring program shall be determined by agreement of the Operator, the Village Board and its consultant, but all costs associated with monitoring shall be borne by the Operator.
    - (ii) If the air monitors show an exceedance of 35 micrograms per cubic meter of PM2.5 in any 24 hour period, the Operator shall evaluate and implement additional best management practices to minimize PM2.5 emissions.
    - (iii) If the air monitors show an exceedance of 150 micrograms per cubic meter of TSP in any 24 hour period, the Operator shall evaluate and implement additional best management practices to minimize TSP.
    - (iv) The Operator shall compile a monthly summary of monitoring results and report such results within 10 days of the end of each month to the Village Board.
- (f) Control of Waste Materials

The amount of waste material (non-marketable fines) returned to a mine site as part of the reclamation process shall not exceed the site specific ratio of waste to target material of the extracted raw material as determined prior to the processing of the raw material. A processing facility shall keep records of the tonnage of raw material drawn from each raw material source. The tonnage of waste byproduct that is returned to each mine reclamation site shall not exceed the tonnage of waste contained in the raw material received at the processing facility from that site.

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- (g) Standards Regarding Groundwater and Surface Water.
  - (1) Impacts to Groundwater Quality.
    - (i) The mine shall have at least one sentinel well at the boundary of the mining site that is down gradient of the groundwater flow. The Operator shall take quarterly samples of the sentinel well for lead, arsenic, turbidity, total suspended solids, chlorides, nitrates, specific conductivity and any chemical or residual of the chemical used as a flocculent and any other toxic substance that may reasonably be believed to be present in the area or in the type of deposit from which the extraction will be made during the first 2 years of operation and twice a year in subsequent years.
    - (ii) The mining company shall sample private wells within 1/4 mile of the mine site down gradient of the groundwater flow every 2 years and private wells on the perimeter of other sides of the mine site every 3 years. In addition, monitoring at the sentinel well shall determine changes in the level of the groundwater table.
    - (iii) Prior to the onset of mining operations, all private wells with 1/2 mile of the property on which the mine site is located shall be sampled for lead, arsenic, turbidity, total suspended solids, chlorides, nitrates, specific conductivity and any other toxic substance that may reasonably be believed to be present in the area or in the type of deposit from which the extraction will be made.
    - (iv) Mining operations shall not cause an exceedance of groundwater quality standards in Wis. Admin. Code Chapter NR 140.
  - (2) Impacts to Groundwater Quality.
    - (i) At least 60 days prior to commencement of non-metallic mining operations, the Operator shall place sufficient test wells to verify the groundwater elevations on the mine site. Test wells located in the down-gradient direction of groundwater flow shall be located so that they can serve as permanent sentinel monitoring wells during the course of operations.
    - (ii) Mining operations shall not extract materials at a depth below the point that is 5 feet above the maximum established groundwater table.
    - (iii) Mining operations shall not cause a significant reduction in the quantity of groundwater available for reasonable use by current users within 1/2 miles of the mine site. A significant reduction includes a drop in the water table that results in a substantial adverse impact on a private well including but not limited to the inability of a well to provide water on a continuous basis.
  - (3) Impacts to Surface Water Base Flow. Mining operations shall not cause a lowering of the groundwater table that results in adverse effects on surface waters with 1/4 mile of the mine site, including but not limited to, a reduction of water in streams and

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- tributaries to or below base flows established prior to the beginning of mining operation.
- (4) Impacts to Surface Water Use. Mining operations shall not cause a lowering of the groundwater table that results in adverse effects on surface waters which serve as a critical source of water for agricultural, recreational or municipal functions such as fire protection within 1/2 mile of the mine site. Adverse effects include but are not limited to a reduction of water in streams and tributaries to or below base flows established prior to the beginning of mining operations.
  - (5) The Operator shall undertake all measures necessary for the control of surface water runoff from silica sand mining operations in order to prevent pollution and erosion of sediment onto neighboring properties, surface water and groundwater, and shall also comply with the standard for erosion control under Wis. Admin. Code Chapters NR 216 and NR 151, as applicable.
  - (6) In the event that the site contains areas adjacent to the silica sand mining operations that are being used for agricultural, commercial or residential purposes, the Operator shall undertake all measures necessary to control surface water runoff from those areas from entering mining operations or otherwise causing contamination of surface water and groundwater.
- (h) Hazardous materials.
- (1) All hazardous chemicals shall be stored, used and disposed of in accordance with applicable state and federal law.
  - (2) The Operator shall not use as landfill material or dispose of onsite, any waste material that contains a toxic amount of a hazardous chemical or a toxic residual.
  - (3) The Operator shall have a plan for responding to spills of any hazardous materials on the site.
- (i) Special Exceptions.
- (1) The Operator can request a special exception from the minimum standards of this section if it can demonstrate that the intent of this Ordinance can be achieved through the use of alternative measures; and that the public health, safety and welfare will not be adversely affected thereby; and agrees to post a full coverage bond for any future damage caused as a result of any exceptions granted.
  - (2) The Village Board may, at any time, impose requirements in addition to or exceeding the minimum standards if it has evidence that the public health, safety and welfare is not being or will not be adequately protected without the imposition of additional measures.

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### 7-7-8 ANNUAL REPORT AND LICENSE RENEWAL

- (a) Annual Report.
  - (1) No later than October 1 of each calendar year, the Operator shall submit an annual report to the Village Board for all active and intermittent mining sites and processing facilities for which the Operator has a license in the Village of Gays Mills. The reporting period shall be from the date of the issuance of the first Operator's license to September 30, and thereafter from October 1 to September 30.
  - (2) The annual report shall include the following information:
    - (i) An identification of the Operator and location of the mining site.
    - (ii) A map or drawing accurately showing the area of excavation, the unclaimed area and any reclaimed area including a calculation of the number of acres for each type.
    - (iii) A description of activities and operations on the site for the previous calendar year.
    - (iv) A description of activities and operations on the site anticipated for the following calendar year.
    - (v) A written report demonstrating how the Operator has been in compliance with all terms and conditions of its license and this Ordinance. The report shall include all groundwater, surface water and other monitoring results, as well as a copy of all annual reports submitted to all other agencies.
    - (vi) A summary of all areas of non-compliance, and a plan for bringing non-compliant areas into compliance.
- (b) License Renewal.
  - (1) The Operator shall make written request to the Village Clerk for a renewal of the license to operate the mine no later than October 1 of the year in which the license will expire. The application shall be accompanied by the payment a fee in an amount in accordance with the reimbursement provisions set forth in Section 7-6-5(a)(1).
  - (2) The written request for renewal shall incorporate by reference the annual report from the previous calendar years in accordance with the provisions of sub. (a).
  - (3) The Village Clerk shall review the renewal application within 60 days of receipt to determine whether the application is complete and upon a determination that it is complete shall forward it to the Village Board.
  - (4) The Village Board shall review the application to determine if additional information or expertise is necessary to properly evaluate the application. The Village shall retain an engineer or other qualified person with appropriate expertise to inspect the mine



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site unless the site is reported as being inactive during the past year, in which case a member of the Village Board may be assigned to inspect the site. If no additional information or expertise is deemed necessary the Village Board shall schedule the application for a decision under par. (7).

- (5) If the Village Board determines that additional expertise is required, the Village Board shall authorize hiring an engineer or other qualified person with appropriate expertise to advise the Village and shall give written notice to the applicant of the additional administrative fee to be charged beyond the base administrative fee to cover the cost of additional review by the retained expert. The additional fee shall be paid before additional review is undertaken.
- (6) Once the applicant has submitted any additional information and has paid the fee in the amount charged, the retained expert shall report to the Village Board on whether the renewal application meets the requirements of this Ordinance. The Village Clerk shall place the request on the agenda of the next regular meeting or a special meeting of the Village Board prior to the expiration of the license.
- (7) The Village Board shall grant the request for renewal if it finds:
  - (i) There have been no material violations of the Ordinance or the license which have not been appropriately remedied, and
  - (ii) The Operator has not received multiple or recurring citations or orders for violations of the Operator's license or this Ordinance; and
  - (iii) All applicable fees have been paid and financial responsibility requirements have been met.
- (8) If the Village Board denies the request for renewal, the Village Board shall notify the Operator and provide the Operator with an opportunity for a hearing under Section 7-6-9(c).

### **7-7-9 INSPECTION, ENFORCEMENT, PROCEDURES AND PENALTIES**

- (a) Inspection. In addition to an inspection pursuant to Section 7-6-8(b), the Village Board or other authorized representative of the Village, may make inspections to determine the condition of silica sand mining sites in the Village of Gays Mills in order to safeguard the health and safety of the public and determine compliance with the minimum standards under this Ordinance upon showing proper identification, and upon reasonable notice.
- (b) Violations. The following are violations under this Ordinance:
  - (1) Engaging in silica sand mining without an Operator's license granted by the Village Board.
  - (2) Failure to comply with the applicable minimum standards and other terms of this Ordinance.

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- (3) Making an incorrect or false statement in the information and documentation submitted during the licensing process or during inspection of the operation by the Village or its duly appointed representative.
  - (4) Failure to timely file the annual operational report under Section 8.
  - (5) Failure to take appropriate action in response to a notice of violation, citation, request for additional financial assurance under Section 7-6-10 or other order issued by the Village.
- (c) Hearings.
- (1) Any person affected by a notice and order issued in connection with the enforcement of this Ordinance under sub. (d), or upon denial of an application for a license or license renewal, may request and shall be granted a hearing on the matter before the Village Board, provided such person shall file with the Village Clerk, a written petition requesting the hearing and setting forth his or her name, address, telephone number and a brief statement of the grounds for the hearing or for the mitigation of the order. Such petition shall be filed within 30 days of the date the notice and order are served or upon 30 days upon denial of an application for a renewal. Upon receipt of the petition, the Village Clerk shall set a time and place for a hearing before the Village Board and shall give the petitioner written notice thereof.
  - (2) After the hearing, the Village Board by a majority vote, shall sustain, modify or withdraw the notice under sub. (d), or grant or deny the license or license renewal, depending on its findings as to whether the provisions of this Ordinance have been complied with and the petitioner shall be notified within ten days in writing of such findings.
  - (3) The proceedings of the hearing, including the findings and decision of the Village Board and the reasons therefore shall be summarized in writing and entered as a matter of public record in the office of the Village Clerk. Such record shall also include a copy of every notice and order issued in connection with the case.
- (d) Remedies.

The Village Board may take any appropriate action or proceeding against any person in violation of this Ordinance, including the following:

- (1) Issue a stop work order.
- (2) Issue a notice of violation and order that specifies the action to be taken to remedy a situation.
- (3) Issue a citation or refer the matter to local law enforcement officials.
- (4) Refer the matter to legal counsel for consideration and commencement of legal action including the assessment of penalties under sub. (f) and injunctive relief.

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- (5) Suspend or revoke the Operator's license under sub. (e).
- (e) License Suspension or Revocation. After giving notice and a hearing, the Village Board may suspend or revoke an Operator's license for a violation under sub. (a).
- (f) Penalties.
  - (1) Any person or entity who is adjudicated for a violation shall pay a forfeiture of not less than \$100 per violation nor more than \$5,000 per violation and/or be subject to injunctive relief each day a violation exists is a separate violation.
  - (2) Any person or entity adjudicated for violation of this Ordinance shall pay court costs and reasonable attorney's fees. The remedies provided herein shall not be exclusive of other remedies.
- (g) Non-Waiver. A failure by the Village to take action on any past violation(s) shall not constitute a waiver of the Village's right to take action on any present violation(s).

### **7-7-10 FINANCIAL ASSURANCE**

- (a) Financial assurance shall be provided to the Village as a condition of license approval in the amount necessary for the following:
  - (1) Road repair. An amount necessary for the repair and maintenance of Village Roads used for truck traffic transporting materials to or from that site.
  - (2) Water Supply. An amount necessary to provide an alternative water supply to potentially affected residences or agricultural operations with 1/2 mile of the site or such other area shown to be impacted by the Operator's operations.
- (b) The form of financial assurance made to the Village of Gays Mills shall be that form agreed to by the Village Board and may include escrow accounts, irrevocable letters of credit or other measures agreed upon by the Village Board.
- (c) In the event the Village determines that the amount of financial assurance must be increased to meet specific road repair or water supply needs, or the amount available has been utilized, the Village shall notify the Operator of the additional amount needed and the basis for the request. The Operator shall have 30 days to provide the increased amount.
- (d) The Operator shall also provide to the Village proof that it has provided the financial assurance for reclamation required under Wisconsin law.

### **7-7-11 DAMAGES TO PRIVATE WATER SUPPLIES**

- (a) A property owner within 1/2 mile of the mine site may seek remedies under subs. (b)-(e) for any of the following damages to private water supply:
  - (1) A maximum contaminant level, preventative action limit or enforcement standard is exceeded in a private water supply well on the owner's property.

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- (2) A substantial adverse impact on the quantity of water from a private well on the owner's property occurs, including but not limited to the inability of any such well to provide water on a continuous basis.
  - (3) A lowering of surface waters which serve as a source of water for personal, agricultural or municipal functions on the owner's property to levels below base flow levels for more than 5 days.
- (b) Any property owner under sub. (a) seeking a remedy under this Section shall simultaneously file a notice with the Village and the mine Operator of the occurrence of the event under sub. (a) explaining the nature and extent of the problem.
    - (c) Within 24 hours of receipt of such notice under sub. (b), the Village may use funds provided under Section 7-6-10 to provide an adequate interim water supply. The Village shall also use funds under Section 10 to indemnify the Village for any claims filed under Wis. Stat. § 281.77(4). An interim water supply shall continue until the Village has approved the report or plan under sub. (d).
    - (d) Within 20 days of receipt of notice under sub. (b), the mine Operator shall provide to the property owner and to the Village a report that demonstrates that the impact to the property owner was not attributable to the mining operation or to present a plan for a permanent alternative water supply to be paid by the Operator.
    - (e) The Village shall in consultation with the property owner review the report or plan and approve or deny such plan. If the Village determines that the mine Operator was not the cause of damage to the private water supply, the Operator may elect to be reimbursed by the property owner for the costs of supplying water during a period not exceeding one year.
    - (f) A property owner beyond 1/2 mile of the mine site may apply to the Village for use of funds under Section 10 to remedy damages to a private water supply identified in sub. (a), provided that the property owner can demonstrate to the Village that the damage to the private water supply was caused by the mine. If the Village determines that the damage was caused by the mine, the property owner can utilize the remedies in subs. (b) to (d).

### 7-7-12 SEVERABILITY, INTERPRETATION, AND ABROGATION

- (a) Severability.
  - (1) Should any section, clause, provision or portion of this Ordinance be adjudged unconstitutional or invalid, unlawful, or unenforceable by a final order of a court of competent jurisdiction including all applicable appeals, the remainder of this Ordinance shall remain in full force and effect.
  - (2) If any application of this Ordinance to a particular parcel of land is adjudged unconstitutional or invalid by a final order or a court of competent jurisdiction including all applicable appeals, such judgment shall not be applicable to any other parcel of land not specifically included in said judgment.

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- (3) The provisions of this Ordinance shall be liberally construed in favor of the Village of Gays Mills and shall not be construed to be a limitation or a repeal of any other power now possessed or granted to the Village of Gays Mills.
- (4) This Ordinance is not intended to repeal, annul or interfere with any easements, covenants, deed restrictions or agreements created prior to the effective date of this Ordinance.

### **7-7-13 MINING AGREEMENT**

Any of the provisions of this Ordinance; including the license term, may be modified by the development of a Mining Agreement between the Village and the Operator if the Village Board determines that the intent of this Ordinance can be achieved through the use of alternative measures, and that the public health, safety and welfare will not be adversely affected thereby.