

Chapter 5

Title 5

BUSINESS REGULATIONS

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Chapter 5.04

LICENSE AND PERMIT PROCEDURE*

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5.04.010 Chapter provisions to govern. Unless otherwise specifically provided by the laws of the state or ordinances of the village, the provisions of this chapter shall apply to the issuance, transfer and revocation of all licenses and permits issued under the provisions of this code. (Prior code SS16.01(part)).

5.04.020 Application--Forms. All applications for licenses or permits shall be made upon regular forms approved by the village board and furnished by the village clerk-treasurer to the applicant. (Prior code SS16.01(1)).

5.04.030 Application--Fees. The amount of the license or permit fee shall be first paid to the village clerk-treasurer and his receipt therefore shall be attached to the application. (Prior code SS16.01(2)).

5.04.040 Application--Signing and notarizing. The application shall be signed by the applicant and, where required, shall be sworn to before a notary public or other public officer authorized to administer oaths, and filed with the village clerk-treasurer. (Prior code SS16.01(3)).

5.04.050 Application--Consideration and hearing. The village clerk-treasurer shall present such application to the village board at its next meeting held after the filing thereof, except when some village officer, board or commission is first required to examine or report upon such application, in which case the clerk-treasurer shall refer the application for report to such officer, board or commission and shall present the application and report thereon to the village board as soon as reasonably possible thereafter. Opportunity shall be given by the village board to any person to be heard for or against the granting of any license or permit. (Prior code SS16.01(4)).

5.04.060 License--Issuance generally. The village clerk-treasurer shall issue such license or permit only after its issuance has been authorized by the village board or proper officer. (Prior code SS16.01(5)).

5.04.070 License--Issuance by administrative authorities. When administrative authority to issue any license or permit is delegated to any village officer, board or commission under the terms of this code, such officer, board or commission shall grant such license when proper application has been made in accordance with the provisions of this code. In the event such application is denied, the reasons for denial shall be reduced to writing and delivered or mailed to the applicant. Such applicant may at any time within thirty days thereafter request the village board to review such determination or any failure to make the same, which action shall be taken by the village board within eight days after written request therefore has been filed with the village clerk-treasurer. (Ord. A-358-78 Part VI, 1978: prior code SS16.01(6)).

5.04.080 License--Conditions of issuance. A. All Obligations to Village to be Paid. Before any license or permit, except for one and two family residential, shall be issued under the provisions of this code, the village Finance Department, or their designee, shall check all village records to determine whether or not any applicant, owner or owners personal representative or agent, heirs and assigns, are in arrears for taxes or any other obligation to any department of the village, with the exception of citations issued by the Grafton Police Department. If the Finance Department, or their designee, finds any applicant, owner or owners personal representative or agent, heirs and assigns to be in arrears for taxes or any other obligation, with the exception of citations issued by the Grafton Police Department, the issuing officer or department shall

withhold any and all licenses and permits for which application has been made until such taxes or obligations have been paid in full. (Ord. 021, Series 2010)

B. Consent to Inspection of Premises. As a condition of the granting of any license or permit, the licensee or permittee shall agree in writing that during the period of such license or permit, the chief of police, police officer or other duly authorized officials of the village may at all reasonable hours enter into and upon the licensed premises for the purpose of inspecting the premises to ascertain if the provisions of this code with respect to the license, and the state laws with respect to the license, are being obeyed, and such person shall also consent to the removal from the licensed premises, without warrant, of all things and articles they had in violation of village ordinances and state laws with respect to the license, and to the introduction and receipt of such things and articles in any prosecution or proceeding for violation of any provision of village ordinances or state law with respect to the license. (Ord. A-358-78 Part VII, 1978: prior code SS16.01(7)).

5.04.090 License--Transfer. Licenses or permits shall not be transferable from one person to another, but may be transferred from one location to another by approval of the village board, and the full license or permit fee shall be charged for one year or any portion thereof. A fee of ten dollars shall be charged for any such transfer. (Prior code SS16.01(8)).

5.04.100 License--Replacement. Whenever any license or permit shall be lost or destroyed without fault on the part of the holder or his agent or employees, a duplicate in lieu thereof may be issued by the village clerk-treasurer, upon satisfying himself of the facts, for a fee of one dollar. (Prior code SS16.01(9)).

5.04.110 License--Revocation. Any license or permit issued by the village board or any officer or department of the village may be revoked by the village board at any regular or special meeting by a majority vote in favor of such revocation; provided, that no license or permit shall be revoked until the holder thereof has been given an opportunity to be heard by the village board. Notice of such hearing shall be given to the permit or license holder either personally or by registered mail by the village clerk-treasurer in the time and manner as directed by the village board. Any license or permit issued by the village board, any village officer or department shall be and remain the property of the village and upon revocation thereof, the same shall be returned to the clerk-treasurer's office, and if not so returned after demand, the village reserves the right to institute suit against the holder or anyone having possession of such license or permit for the return of the same. Any person failing to return any such license or permit after revocation thereof and demand having been made as provided in this section, shall be deemed to have violated the provisions of this section and shall, upon conviction thereof, forfeit not less than ten dollars nor more than one hundred dollars, together with the costs of prosecution, and in default of such payment of such forfeiture and costs of prosecution, shall be imprisoned in the county jail until the forfeiture and costs are paid, but not exceeding sixty days. Whenever any

license or permit is revoked, no refund of any unearned portion of the fee paid therefore shall be made. (Prior code SS16.01(10)).

For statutory provisions authorizing the village board to license and regulate, see Wis. Stat. 1975 561.34.

Chapter 5.05

EMPLOYEE BENEFITS FOR PRIVATE BUSINESS

Sections:

5.05.010 Employee benefits for private business

5.05.010 Employee benefits for private business. No ordinance of the Village of Grafton, nor any other municipal ordinance, rule, or regulation shall mandate that any business entity, other than the Village itself, shall provide certain wages or benefits to its employees or set forth the amount or type of any employee wages or benefits provided by an employer located within the Village limits. (Ord. 006, Series 2009)

Chapter 5.06

LICENSING OF TOBACCO PRODUCTS AND CIGARETTE RETAILERS

Sections:

5.06.010 Adoption of State Statutes and Definitions

5.06.020 License Required

5.06.025 Special event tobacco products license

5.06.030 Penalties

5.06.010 Adoption of State Statutes and Definitions. A. Adoption of State Statutes. The provisions of Chapter 134.65; 139.30 to 139.45 and/or 139.75 to 139.86 and all acts amendatory thereof and supplementary thereto are hereby adopted as a portion of this chapter so far as applicable. A violation of any such provision shall constitute a violation of this chapter.

B. Definitions. As used in this chapter, the term:

1. "Cigarette" means any roll of tobacco wrapped in paper or any substance other than tobacco.

2. "Licensed establishment" means any establishment licensed by the village Board of the Village of Grafton to sell tobacco products and/or cigarettes.

3. "Manufacturer" means any person who manufactures cigarettes for the purpose of sale.
4. "Person" means a natural person, sole proprietor, partnership, corporation or association.
5. "Premises" means the area described in a license or permit.
6. "Retailer" means any person who sells, exposes for sale or possesses with the intent to sell to consumers any tobacco products or cigarettes.
7. "Sell" or "Sale" includes the transfer, gift, barter, trade or exchange or any shift, device scheme or transaction whereby cigarettes and/or tobacco products may be obtained and the solicitation of orders for, or the sale for, future delivery of cigarettes and/or tobacco products.
8. "Stamp" means the authorized indicia of cigarette tax payment including water transfer stamps and heat applied stamps.
9. "Tobacco products" means cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine cut and other chewing tobacco, shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing or smoking; but tobacco products does not include cigarettes, as defined in 139.30(1).
10. "Underage Person" means a person who has not attained the legal age of "18".
11. "Vending Machine" is any mechanical device which automatically dispenses cigarettes upon the deposit therein of specified coins in payment of such cigarettes.
12. "Village" means the Village of Grafton

5.06.020 License Required. A. When required. No person, as provided by Wisconsin Statutes Section 134.65., shall distribute, vend, sell, offer or keep for sale at retail deal or traffic in or, for the purpose of evading any law or ordinance, give away or gift any tobacco product or cigarette or cause the same to be done, without having obtained a license from the Village of Grafton. All statutes, ordinances and regulations of the state and village applicable thereto shall be complied with.

1. License applications to vend, sell, offer or keep for sale at retail deal or traffic in cigarette or tobacco products shall be made in writing on a form prescribed by law and shall be sworn to by the applicant. Said application shall be presented to the Village Clerk for approval by the Village board.

B. Separate License Required for Each Place of Sale. A license shall be required for each of those premises where tobacco products and/or cigarettes are kept, sold or offered for sale.

C. The fee for such license for the manufacture, sale, exchange, barter, disposition of, giving away or keeping for sale of cigarettes, and tobacco products shall be \$100.00 per year.

D. The licensing period for said license shall be July 1 to June 30 of a given year.

5.06.025 Special event tobacco products license. A. The Village Board shall have the authority to issue a limited-term tobacco products license for special events. Such license shall only be issued to registered not-for-profit organizations as defined for taxation purposes in Wisconsin Statutes Section 70.11.

B. A license application to vend, sell, offer or keep for sale at retail deal or traffic in cigarette or tobacco products at a limited term special event shall be made in writing on a form supplied by the Village of Grafton and shall be sworn to by the applicant. Said application shall be presented to the Village Clerk for approval by the Village Board.

C. The term of said special event tobacco products license shall not exceed four (4) consecutive days.

D. The fee for said special event tobacco products license shall be \$10. The Village Board may waive the license fee requirement upon written request from the applicant.

(Ord. 024, Series 2005, Part 1)

5.06.030 Penalties. Any person violating this Chapter shall be fined not more than \$100 nor less than \$25 for the first offense and not more than \$200 nor less than \$25 for the second or subsequent offense. If upon such second or subsequent violation, the person so violating this Chapter was personally guilty of a failure to exercise due care to prevent the violation, the person shall be fined not more than \$300 nor less than \$25. Conviction of a violation of this Chapter shall immediately terminate the license of the person ()s convicted of being personally guilty of such failure to exercise due care and the person shall not be entitled to another license hereunder for a period of 5 years thereafter, nor shall the person in that period act as the servant or agent of a person licensed hereunder for the performance of the acts authorized by such license. (Wis. Stats 134.65(5))

(Ord. 027, Series 1999, Part 1).

Chapter 5.08

AUCTION SALES*

Sections:

- 5.08.010 Auction sale defined.
- 5.08.020 License--Required.
- 5.08.030 License--Exceptions.
- 5.08.040 License--Bond.
- 5.08.050 License--Fee.
- 5.08.060 License--Revocation.
- 5.08.070 Hours limited.
- 5.08.080 Disorderly conduct.
- 5.08.090 Violation--Penalty.

5.08.010 Auction sale defined. The term "auction sale," as used in this chapter, means all sales by auction of four or more articles of merchandise whether the property is sold to the highest bidder in fact or by "dutch auction," by bidding down the seller thereof or adding to the quantity of property offered for sale at a fixed price or any other way if made to evade the provisions of this section. (Prior code SS16.06(1)).

5.08.020 License--Required. No person or transient merchant as defined by Section 129.05 (1) of the Wisconsin Statutes shall within the village exercise the business of auctioneer or conduct any auction sale as defined in Section 5.08.010 without first obtaining a license therefor and filing a bond as provided in this chapter, except as provided in Section 5.08.030. (Prior code SS16.06(2)).

5.08.030 License--Exceptions. The licensing provisions of this chapter shall not apply to:

- A. Sales made by virtue of a chattel mortgage, or a rule, order or judgment of any court or a tax or duty law of the state or United States;
- B. Sales made by or on behalf of any executor, administrator or assignee for the benefit of creditors;
- C. Sales of state or United States property;
- D. Closing-out sales by resident merchants where all taxes on such stock-in-trade have been paid;
- E. Sales of livestock or farm property of any farmer who has resided in Ozaukee County continuously for one year or more and on which all taxes have been paid;
- F. Sales conducted for charitable purposes;
- G. Sales by or in behalf of individual resident within the village of their own personal property. (Prior code SS16.06(3)).

5.08.040 License--Bond. Each applicant shall file with the village clerk-treasurer a bond in the sum of two thousand dollars with surety approved by the village president, conditioned that such applicant, if licensed, will pay to the village clerk-treasurer all fees required by this chapter, and all penalties that may be imposed upon such person for violation of this chapter, and will render to the village clerk-treasurer an account in writing as provided in Section 5.08.070. (Prior code SS16.06(4)).

5.08.050 License--Fee. The fee for a license issued under this section shall be twenty-five dollars per day. (Prior code SS16.06(5)).

5.08.060 License--Revocation. Licenses issued under this section may be revoked by the village board or suspended for a period not to exceed ten days by the village president, pending hearing by the board, for the following reasons:

A. Misrepresentation as to the character, quality, condition, previous history, value or ownership of any property offered for sale;

B. Substitution of any other article for the article sold to the bidder;

C. Bidding in on property offered for sale by the licensee, owner, auctioneer or their agents or employees;

D. Violation of any of the ordinances of the village or laws of the state relating to conduct of auctions or the safety, peace, quiet and good order of the village. (Prior code SS16.06(8)).

5.08.070 Hours limited. No auction sale shall be conducted within the village between the hours of eight p.m. and ten a.m. (Ord. A-358-78 Part 8, 1978: prior code SS16.06(6)).

5.08.080 Disorderly conduct. No licensee under this chapter shall permit any obscene literature or device or any disorderly conduct upon the licensed premises. (Ord. A-358-78 Part 14, 1978: prior code SS16.06(7)(part)).

5.08.090 Violation--Penalty. Any person who shall violate any provisions of this chapter shall, upon conviction thereof, forfeit not less than twenty-five dollars nor more than two hundred dollars, together with the costs of prosecution. In the event of a failure to pay such forfeiture, where no showing of indigency is made, the defendant may be imprisoned for no more than ninety days, as the court deems fit, or until such judgment is sooner paid. The obligation to comply with Section 5.08.050 shall be the joint and separate responsibility of the owner of the goods offered for sale and the auctioneer. (Ord. A-359-78 Part 2, 1978: prior code SS16.06(7)(part)).

For statutory provisions on municipal regulation of licensing, see Wis.Stat. 1975 5130.06.

Cross-reference: For provisions on citation deposits and enforcement officials for violations of this chapter, see SSSS1.12.020 and 1.12.030, respectively, of this code.

Chapter 5.12

COIN-OPERATED AND AUTOMATIC

DRY-CLEANING EQUIPMENT*

Sections:

- 5.12.010 Purpose.
- 5.12.020 Permit--Required.
- 5.12.030 Permit--Application.
- 5.12.040 Permit--Issuance--Fee.
- 5.12.050 Permit--Revocation.
- 5.12.060 Inspection of premises.
- 5.12.070 Permissible buildings.
- 5.12.080 Installation and operation.
- 5.12.090 Miscellaneous requirements.
- 5.12.100 Hours of operation.
- 5.12.110 Additional rules and regulations.
- 5.12.120 Chapter not to impair village authority.
- 5.12.130 Violation--Penalty.

5.12.010 Purpose. It is found and declared that the operation and installation of coin-operated and automatic dry-cleaning equipment when installed in certain types of buildings, and when installed in certain manners and when operated in certain manners is detrimental to the public health, safety and general welfare of the public and that in order that the public health, safety and welfare of the people may be fully protected it is necessary that such operations and installations be inspected and controlled. (Ord. A-45 Part 1, 1962).

5.12.020 Permit--Required. No person, firm or corporation shall install or operate any coin-operated or automatic dry-cleaning equipment in any building located in the village, unless they hold a valid permit issued by the health officer in the name of the operator and for the specific building within which the dry-cleaning equipment is contained. (Ord. A-45 Part 2 (part), 1962: prior code SS16.09(1)).

5.12.030 Permit--Application. Any person, firm or corporation intending to install or operate coin-operated or automatic dry-cleaning equipment shall file in duplicate an application for such permit in the office of the health officer on application forms prepared by the health officer. The operator shall file with the permit application an occupancy permit, issued by the building inspector, for the operation of a coin-operated or automatic dry-cleaning establishment, in the building designated on the permit application filed with the health officer. (ord. A-45 Part 2 (part), 1962: prior code SS16.09(2)).

5.12.040 Permit--Issuance--Fee. When all applicable provisions of this section and all rules and regulations adopted pursuant thereto have been complied with by the operator, the health officer shall issue a permit upon the payment of a fee of ten dollars. All permits so issued shall expire on the first day of January following the date of issuance, unless sooner revoked as provided in this chapter. Whenever any person, firm or corporation to whom a license has been issued, sells, leases or otherwise relinquishes control of a coin-operated or automatic dry-cleaning establishment, they shall, within twenty-four hours thereafter, notify the health officer and as a part of such notification shall provide the health officer with the name and address of the person, firm or corporation to whom such control has been relinquished. (ord. A-45 Part 2 (part), 1962: prior code SS16.09(3)).

5.12.050 Permit Revocation. Whenever inspection of any establishment containing coin-operated or automatic dry-cleaning equipment indicates that there is a violation of any provisions of this chapter or of any rules or regulations of the health officer adopted pursuant thereto, the health officer may, following twenty days' notice to the operator to correct such violation, revoke the permit unless within the twenty-day period the violation is eliminated. (Ord. A-45 Part 2 (part), 1962: prior code SS16.09(4)).

5.12.060 Inspection of premises. The health officer or his duly authorized agent is authorized to enter any part of the premises in which coin-operated or automatic dry-cleaning equipment is located at any reasonable time for the purpose of inspecting the installation and operation of the equipment and the building in which the same is located. (Ord. A-45 Part 2 (part), 1962: prior code SS16.09(5)).

5.12.070 Permissible buildings. Coin-operated or automatic dry-cleaning equipment shall not be installed in any building a part of which is occupied as a dwelling, nor in any building except a single-story structure; provided, that this section shall not apply to that part of any building for which the building inspector had, prior to the effective date of the ordinance codified in this chapter, issued an occupancy permit for operation of a dry-cleaning establishment. The floor of every dry-cleaning establishment shall be constructed of materials which are impervious to solvents. Every such building shall be structurally sound and in good state of maintenance and repair. (Ord. A-45 Part 2 (part), 1962: prior code SS16.09(6)).

5.12.080 Installation and operation. Coin-operated or automatic dry-cleaning equipment shall be installed and operated in accordance with the following requirements:

A. A copy of the detailed installation, operation and maintenance manual of the manufacturer making the machine shall be filed with the health officer for each type or model of machine located on the premises.

B. Only the front or customer side of customer-operated dry-cleaning equipment shall be exposed in the area to which customers have access. The remaining portions of the equipment shall be separated from the areas to which customers have access by a ceiling-height partition which is solid, except as provided hereinafter. The partition or the dry-

cleaning machine housing shall contain grill openings for ventilation adjacent to each machine, through which air shall be conducted from the customer side through the partition at the following minimum flow rates:

<u>No. of Machines</u>	<u>Minimum Flow Rate per machine (cfm)</u>
1-3	500
4-8	400
9-16	375
17 (or more)	360

The exhaust ventilation rates enumerated in this section shall be maintained on a continuous basis at all times while the establishment is open for business. The exhaust system wiring shall be installed in such manner as to prevent the dry-cleaning equipment from operating unless the exhaust system is in operation.

C. Access to storage, equipment and maintenance areas shall be prohibited to customers.

D. A fan to provide general ventilation, in Combination with the ventilation required in subsection B of this section, at the rate of one thousand cfm per machine and vented to the outside atmosphere shall be provided in the storage, equipment and maintenance areas so that such fan may be used in case of serious solvent leakage.

E. The cleaning equipment shall be provided with an exhaust system capable of maintaining a minimum of one hundred feet per minute face velocity through the loading door whenever this door is open. The ductwork connections from this system shall be sealed (soldered or taped) and the discharge stack extended to the outdoor atmosphere at least five feet above the roofline of the structure.

F. A satisfactory method of preventing liquid leaks from escaping the storage, equipment and maintenance areas to the customer area shall be provided. This may include diking of the floor of the enclosure or machine base to hold a liquid volume equal to the maximum quantity of solvent which might escape. A means shall be provided for draining and containment of solvent in the event of a leak. This may be accomplished by gravity flow to a holding tank. Every such holding tank shall be vented to the outside atmosphere.

G. An interlock system shall be provided on all customer-operated machine(s) to prevent the loading door from being opened during the entire cleaning cycle. This system may be either electrical and/or mechanical and so connected that in event of a power failure only the operator or his trained attendant can open the loading door. Fully closed systems, wherein cleaning, drying and deodorizing processes are completed entirely within one unit, and semiclosed systems, wherein washing and extracting processes are performed in one machine from which the materials are transferred manually to another machine or machines for drying and deodorizing, need not have an interlock system to prevent the loading door from being opened during the cleaning cycle; provided, handling of all materials being cleaned, including insertion of materials into and removing of materials from all cleaning, extracting and drying and deodorizing equipment, is carried out only by competent trained machine operators and not by customers.

H. A step by step instruction list shall be posted in a conspicuous location near the customer-operated machine(s).

I. A competent, trained attendant shall be present on the premises whenever the premises are open for business. A telephone number shall be posted for use by the operator or attendant in the event he requires assistance in case of emergency.

J. The machine design and operation shall be such that no solvent is retained in the cleaned items upon completion of the full dry-cleaning cycle.

K. Only nonflammable solvents shall be used in the dry-cleaning machine(s).

L. Only the solvent or solvents specified by the manufacturer shall be used in the dry-cleaning machine(s).

M. A supply of tempered make-up air equal to or greater than the total volume of air exhausted from the plant shall be provided.

N. Exhaust ventilation stacks shall be located as far as possible from all air intakes of combustion devices, driers and ventilators located on the establishment premises or adjoining premises, and shall be so located as to prevent any odor or noise nuisance or health hazard to adjoining premises.

O. Dry-cleaning machines shall be maintained in a good state of repair.

P. Solvent control shall be such that under normal conditions of operation and use no solvent odor can be detected in the customer area. (Ord. A-45 Part 2 (part), 1962: prior code SS16.09(7)).

5.12.090 Miscellaneous requirements. A. Solvent shall be stored in closed containers and shall be transferred from the containers in a line free from leaks.

B. Filter residues and other residues containing solvents shall be disposed of so as not to create a health hazard or nuisance. A covered metal container, located outside of the customer area, shall be used for temporary storage of such residues.

C. Respiratory protective equipment meeting Bureau of Mines Standards for Organic Vapors shall be provided for maintenance personnel and must be kept in good repair and available for immediate use.

D. No heating devices having an open flame or incandescent surfaces shall be placed in any room in which dry-cleaning solvents are stored or used. Air intakes of all combustion equipment shall be placed so that solvent-contaminated air cannot enter. (Ord. A-45 Part 2 (part), 1962: prior code SS16.09(8)).

5.12.100 Hours of operation. Coin-operated or automatic dry-cleaning businesses shall be operated only between the hours of five a.m. and nine p.m. of any day. (Ord. A-45 Part 2 (part), 1962: prior code SS16.09(9)).

5.12.110 Additional rules and regulations. The health officer is authorized and directed to make such further and additional rules and regulations as may be necessary from time to time in order to assure the health and safety of the public and carry out the intent of this chapter, and such rules and regulations shall have the same force and effect as if specifically set forth in this chapter thirty days after

the same have been promulgated by the officer. A copy of all such rules and regulations shall be kept on file in the office of the health officer and in the municipal reference library and copies shall be made available by the officer to any person, firm or corporation requesting the same. (Ord. A-45 Part 2 (part), 1962: prior code SS16.09(10)).

5.12.120 Chapter not to impair village authority. Nothing in this chapter shall be construed or interpreted to limit or impair in any way the authority of the village to define and declare nuisances, or of the health officer to cause the removal or abandonment of any nuisance by summary or other appropriate proceedings. (Ord. A-45 Part 2 (part), 1962: prior code SS16.09(12)).

5.12.130 Violation--Penalty. Any person, firm or corporation violating any section of this chapter or any rule or regulation adopted by the health officer pursuant to the authority granted by this chapter, or any order of the health officer based upon the provisions of this chapter, shall, upon conviction thereof, forfeit not less than twenty-five dollars nor more than two hundred dollars, together with the costs of prosecution. In the event of a failure to pay such forfeiture where no showing of indigency is made, the defendant may be imprisoned for no more than ninety days, as the court deems fit, or until such judgment is sooner paid. Each day that each violation continues shall be considered a separate offense. (Ord. A-359-78 Part 12, 1978: Ord. A-45 Part 2 (part), 1962: prior code SS16.09(11)).

Cross-reference: For provisions on citation (deposits and enforcement officials for violations of this chapter, see SS1.12.020 and 1.12.030, respectively, of this code.

Chapter 5.16

LIQUOR*

Sections:

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- 5.16.060 Form and expiration of licenses.
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- 5.16.090 Regulation of licensed premises.
- 5.16.095 Prohibition of Intoxicating Liquor, Cereal Malt Beverage or any Other Alcoholic Beverage in Sexually Oriented Businesses.
- 5.16.100 Closing hours.
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- 5.16.115 Cancellation for non-use of license.
- 5.16.118 Demerit point system.
- 5.16.120 Procedure on hearing--Effect of revocation.
- 5.16.130 Failure to Grant License.
- 5.16.140 Violation by agent.
- 5.16.150 Penalty.

5.16.010 Adoption of state statutes and definitions.

A. Adoption of State Statutes. The provisions of Chapter 125 of the Wisconsin Statutes as created by Chapter 79 of the 1981 Laws of Wisconsin and all acts amendatory thereof and supplementary thereto relating to the regulation of intoxicating liquor and fermented malt beverages are adopted as a portion of this chapter so far as applicable, except as otherwise lawfully provided by this chapter. A violation of any such provisions shall constitute a violation of this chapter.

B. Regulation of Underage Persons--Violations--Penalties. As provided for in Wisconsin Statutes Section 125.10, the provisions of Wisconsin Statutes Sections 125.07(4)(a), (b), and (bm), 125.08(3)(b) and 125.09(2) regulating the conduct of underage persons are expressly adopted and incorporated into this chapter by reference. Violators of these provisions shall be subject:

1. For a first violation, to a forfeiture of not more than fifty dollars, suspension of the person's operating privilege as provided under Wisconsin Statutes Section 343.30(6)(b)(1), or a combination of both. For purposes of this subdivision, all violations arising out of the same incident or occurrence shall be counted as a single violation;

Prior ordinance history: Ords. A-459-84 and A-467-85.

2. For a violation committed within twelve months of a previous violation, either a forfeiture of not more than one hundred dollars, suspension of the person's operating privilege as provided under Wisconsin Statutes Section 343.30(6)(b)(2), or a combination of both. For purposes of this subdivision, all violations arising out of the same incident or occurrence shall be counted as a single violation;

3. For a violation committed within twelve months of two or more previous violations, either a forfeiture of not more than five hundred dollars, revocation of the person's operating privilege under Wisconsin Statutes Section 343.30(6)(3), or a combination of both. For purposes of this subdivision, all violations arising out of the same incident or occurrence shall be counted as a single violation.

C. Definitions. As used in this chapter, the term:

1. "Alcohol beverages" means fermented malt beverages and intoxicating liquor.

2. "Club" means an organization, whether incorporated or not, which is the owner, lessee or occupant of a building or portion thereof used exclusively for club purposes, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent or athletic purpose but not for pecuniary gain and which only sells alcohol beverages incidental to its operation.

3. "Fermented malt beverages" means any beverage made of the alcohol fermentation of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated and degerminated grains or sugar containing 0.5% or more of alcohol by volume.

4. "Hotel" means a hotel as defined in Wisconsin Statutes Section 50.50(3), provided with a restaurant.

5. "Intoxicating liquor" means all ardent, spirituous, distilled or vinous liquors, liquids or compounds, whether medicated, proprietary, patented or not, and by whatever name called containing 0.5 percent or more of alcohol by volume, which are beverages, but does not include "fermented malt beverages."

6. "Legal drinking age" has the meaning prescribed in Wisconsin Statutes Section 125.029(8m).

7. "Person" means a natural person, sole proprietorship, partnership, corporation or association.

8. "Premises" means the area described in a license or permit.

9. "Restaurant" means a restaurant as defined in Wisconsin Statutes Section 50.50(5).

10. "Sell," "sold," "sale" or "selling" means any transfer of alcohol beverages with consideration or any transfer without consideration if knowingly made for purposes of evading the law relating to the sale of alcohol beverages or any shift, device, scheme or transaction for obtaining alcohol beverages, including the solicitation of orders for, or the sale for future delivery of, alcohol beverages.

11. "Underage person" means a person who has not attained the legal drinking age.

12. "Village" means the village of Grafton.

13. "Wholesaler" means a person, other than the brewer, manufacturer or rectifier, who sells alcohol beverages to a licensed

retailer or to another person who holds a permit to sell alcohol beverages at wholesale.

14. "Wine" means products obtained from the normal alcohol fermentation of the juices or must of sound, ripe grapes, other fruits or other agricultural products, imitation wine compounds sold as wine, vermouth, cider, perry, mead and sake, if such products contain 0.5 percent or more of alcohol by volume.

15. "Wine cooler" means beverages containing products obtained from the normal alcohol fermentation of the juices or must of sound, ripe grapes, other fruits or other agricultural products, imitation wine compounds sold as wine, vermouth, cider, perry, mead and sake, if such beverages contain not more than six percent of alcohol by volume. (Ord. A-518-88 Part 1 (part), 1988).

16. "Intoxicated person" means an individual who does not have the normal use of such individual's physical or mental faculties due to the consumption of intoxicating liquor, fermented alt beverage, narcotics or other controlled substance to a degree that such individual is incapable of acting in the manner in which an ordinary prudent and cautious person in full possession of one's faculties, using reasonable care, would act under like conditions, thereby, endangering such individual or other persons or property in his or her vicinity. (Ord. 033, Series 1998, Part 1).

17. "Licensed established" means any establishment licensed by the Village Board of the Village of Grafton to sell alcohol beverages pursuant to Chapter 125, Wisconsin Stats. (Ord. 035, Series 1998, part 2)

18. "Licensee" means the holder of a retail "Class A", "Class B", Class "A", Class "B" or Class "C" license granted by the Village Board of the Village of Grafton pursuant to Chapter 125, Wisconsin Stats. (Ord. 035, Series 1998, Part 2).

5.16.020 Licenses required. A. When Required. No person, except as provided by Wisconsin Statutes Section 125.06, shall distribute, vend, sell, offer or keep for sale at retail or wholesale, deal or traffic in or, for the purpose of evading any law or ordinance, give away or gift any intoxicating liquor or fermented malt beverage, or cause the same to be done, without having procured a license, permit or authorization as provided in this chapter, not without complying with all the provisions of this chapter and all statutes, ordinances and regulations of the state and village applicable thereto.

B. Separate License Required for Each Place of Sale. A license shall be required for each of those premises where intoxicating liquor or fermented malt beverages are kept, sold or offered for sale. (Ord. A-518-88 Part 1 (part), 1988).

5.16.030 Classes of license, permits and fees. There shall be the following classes and denominations of licenses which, when issued by the village clerk under the authority of the village board after payment of the fee herein specified, shall permit the holder to sell, deal or traffic intoxicating liquor or fermented malt beverages as provided in this section and as provided in Wisconsin Statutes Sections 125.17, 125.18, 125.25, 125.26, 125.28, 125.51 and 125.57. Except as otherwise provided in this chapter, the full license fee shall be

charged for the whole or fraction of any year. All licensed years shall be deemed to commence as of July 1st.

A. Retail Class "A" License. A Class "A" license authorizes retail sales of fermented malt beverages in original packages, containers or bottles only for consumption off the premises where sold. The license fee shall be one hundred dollars per year.

B. Retail Class "B" License. Class "B" license authorizes retail sales of fermented malt beverages to be consumed either on the premises where sold or off the premises. Persons holding a Class "B" license may sell beverages containing less than 0.5 percent alcohol by volume without obtaining a license under Wisconsin Statutes Section 66.053(1).

1. The fee for a Class "B" license shall be one hundred dollars per year. A Class "B" license may be issued at any time after July 1st, for a period of six months in any license year, for which a seventy-five dollar license fee shall be paid. But, such temporary licenses shall not be renewable during the June 30th through July 1st license year in which issued. All Class "B" licenses issued under this section shall expire no later than the following June 30th.

2. Special Events. A Temporary Class "B"/"Class B" license may be issued to bona fide clubs, to state, county or local lodges or societies and to posts of veterans' organizations any of which have been in existence for at least six months before the date of the application for the special event. A license issued under this section authorizes the sale of fermented malt beverages (Class "B") and/or wine ("Class B") containing not more than six percent alcohol by volume at particularly described picnics or other similar gatherings. As allowed by Wisconsin Statutes 125.26(1) and 125.51(1)(a), the Village Clerk of the Village of Grafton is hereby authorized to issue Temporary Class "B"/"Class B" licenses to organizations as allowed in this section. The fee for a special event license shall be ten dollars per event. (Ord. 027-93, Part 2, 1993)

C. Special Permit. A special permit may be issued by the village clerk to families or clubs, including, but not limited to, nonprofit charitable organizations, to state, county or local fair associations, or agricultural societies, to churches, lodges or societies and to posts of veterans organizations. A special permit issued under this section authorizes the consumption and dispensing of fermented malt beverages and/or wine coolers at particularly described picnics or other similar gatherings which are held on public property. No charge shall be allowed in connection with the serving, selling, consumption or distribution of fermented malt beverages and/or wine coolers at events for which a special permit has been granted, unless a Temporary Class "B" license has also been obtained under this chapter for said event. A special permit for an event for which a Temporary Class "B" license has been or will be procured may only be issued by the village clerk upon proof by the applicant that liability insurance coverage of not less than one-half million dollars has been procured for the contemplated event. This subsection is not intended to regulate the internal activities of private organizations, nor legitimate private social events held entirely on private property.

1. Except as otherwise provided within subsection (C) of this section, or authorized by resolution of the village board under authority of Wisconsin Statutes Section 125.09(1), the consumption or dispensing of alcoholic beverages on any public property or on a highway as defined in Wisconsin Statutes Section 340.01(22) is prohibited.

2. The application for a special permit under the provisions of this section shall be made to the village clerk not less than forty-eight hours before the event takes place. Said application shall include an agreement signed by the applicant on behalf of the entity applying for a special permit, whereby the applicant expressly warrants and represents that the village, its officers, agents and employees shall be held harmless and indemnified from any and all claims which may arise from the issuance of a special permit under this chapter. The village clerk shall refer to the financing and licensing committee any applications for a special permit under this section where there is a question as to whether an applicant qualifies for a special permit under this section.

3. There shall be no fee for a special permit under this subsection. However, a special permit may not be issued to anyone for more than three occasions per year under this section; provided, that each occasion be defined to mean no more than three consecutive calendar days.

D. Wholesaler's Fermented Malt Beverage License. A wholesaler's license authorizes sales 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. The fee shall be twenty-five dollars per year.

E. Retail "Class A" License. A "Class A" license authorizes the retail sale of intoxicating liquor in original packages and containers for consumption off the premises where sold. The fee shall be four hundred dollars per year. Effective with the licensing period that begins on July 1, 2004, the fee for a "Class A" license shall be five hundred (\$500) dollars per year. (Ord. 025, Series 2003).

F. Retail "Class B" License. A "Class B" license authorizes the sale of intoxicating liquor to be consumed by the glass only on the premises where sold and also authorizes the sale of intoxicating liquor in the original package or container, in quantities not to exceed four liters at any one time, and to be consumed off the premises where sold. Wine, however, may be sold for consumption off the premises in the original package or container in any quantity. The fee shall be five hundred dollars per year. (Ord. 027, Series 1998, Part 1).

G. Retail "Class C" License. 1. A "Class C" license authorizes the retail sale of wine by the glass or in an opened original container for consumption on the premise where sold. (Ord. 024, Series 2003, Part 1)

2. A "Class C" license may be issued to a person qualified under S. 125.04(5), Wisconsin Statutes, for a restaurant in which the sale of alcohol beverages accounts for less than 50 percent of gross receipts and which does not have a barroom or a restaurant in which the sale of alcohol beverages accounts for less than 50 percent of gross receipts and which has a barroom in which wine is the only intoxicating liquor sold. (Ord. 024, Series 2003, Part 1)

3. The fee for a "Class C" license shall be one hundred dollars per year. (Ord. 024, Series 2003, Part 1)

H. Retail Reserve "Class B" License. Those licenses available under the quota system existing before December 1, 1997, that were not granted or issued by the municipality as of December 1, 1997. The number of reserve "Class B" license available to a municipality is determined by a series of calculations described in Sections 125.51(4).

1. Initial Retail Reserve "Class B" License Fee. There shall be a \$10,000 fee, to be paid in addition to the regular Class "B" and "Class B" fee, under sections B. and F. above, upon approval of a Retail Reserve "Class B" license. The \$10,000 fee shall not be prorated, as required for the Retail Reserve "Class B" license, if it is issued for a portion of the licensing period.

2. Business Development Grants for Certain Reserve "Class B" Licenses.

a. Findings and Purpose. 1997 Wisconsin Act 27, effective December 1, 1997, establishes a new alcohol license call a Retail Reserve "Class B" license, and requires that all who are granted such a license pay an initial license fee of \$10,000 in addition to the regular Class "B" and "Class B" license fees. The Village Board finds that businesses such as restaurants, hotels and taverns make important contributions to the Village's economy and serve important public purposes, including but not limited to, increasing the Village's property tax base, providing employment and promoting tourism. The Village Board also finds that the new initial fee for Reserve "Class B" licenses far exceeds the actual cost of licensing the activity, and that excessive license fees deter new business and are contrary to economic growth. It is the purpose of this ordinance to utilize the excess revenue generated by Wisconsin Act 27 to assist new Reserve "Class B" licensees in order to assist in the establishment of new businesses.

b. The Village Board may provide a one-time Business Development Grant, in an amount not to exceed \$9,500, to a Reserve "Class B" licensee if the following conditions are met:

1. A Retail Reserve "Class B" license is granted to the licensee, and;

2. The Retail Reserve "Class B" license applicant properly completes, executes and submits an application, for a Business Development Grant to the Village Board on a form provided by the Village Clerk; and'

3. Only applicants whose business is located in a Tax Incremental Financing District (TID) located west of the Milwaukee River shall be eligible for a Business Development Grant;

4. The application for a Business Development Grant is submitted to the Village Clerk, for referral to the Village Board, no earlier than 3 months or later than 12 months after the granting of said Reserve license,.

5. The Retail Reserve "Class B" licensee pays the initial \$10,000.00 fee to the Village.

6. The Village Clerk, with the assistance of any other Village agency or Department, has certified that the applicant for the Business Development Grant is in full compliance with the

requirements of Chapter 125, Wis. Stats., and all local ordinances governing the issuance of retail alcohol beverage licenses.

7. If the Village Clerk determines that the licensee is not in compliance with the approved license, no Business Development Grant may be awarded. The Village Clerk shall provide a written determination to the licensee/applicant and the Village Board.

8. The Village shall retain \$500 of the initial \$10,000 license fee for administrative purposes.

3. Any Business Development Grant awarded to a Retail Reserve "Class B" liquor licensee under this ordinance, shall be subject to the following conditions:

a. The licensee must provide documentation, from a certified public accountant or tax preparer, that:

1. More than fifty (50) percent of the gross sales of the business are from the sale of food and the business is in fact a restaurant , or

2. That the business is a hotel, bed and breakfast, or motel operation or

3. More than fifty (50) percent of the gross sales of the business are from the sale of alcohol, beer or wine. (Ord. 017, Series 2013, Part 1)

4. In accepting the one-time grant award, the applicant/licensee must sign an agreement that in the event any court determines that the Village's Business Development Grant program does not serve a public purpose or is contrary to law, the applicant/licensee will, upon demand by the Village, repay the one-time economic development grant to the Village of Grafton. (Ord. 020, Series 2007, Part 1; Ord. 028, Series 1998, Part 1).

I. "Class A" and "Class B" Licenses. For either Class "A" or Class "B" licenses:

1. A license may be issued after July 1st in any license year. All licenses shall expire on the following June 30th. The fee for the license shall be prorated according to the number of months or fractions thereof remaining until the following June 30th.

2. Licenses valid for up to six months may be issued at any time. The fee for the license shall be fifty percent of the annual license fee. The license may not be renewed during the calendar year in which issued.

J. Pharmacist's License. A pharmacist's license authorizes the sale of intoxicating liquor in quantities of less than four liters for medicinal, mechanical or scientific purposes only, not to be consumed on the premises. Only a registered pharmacist may be issued a pharmacist's license. The fee shall be ten dollars per year.

K. Operator's License. 1. An Operator's License is issued for the purpose of compliance with Chapter 125.17 of the Wisconsin Statutes. The licensing period shall be from July 1 to June 30, for two consecutive years. The fee for an Operator's License shall be fifty-dollars (\$50.00), for a full or partial licensing period.

2. Applications for Operator's Licenses shall be made in writing on a form provided by the Village Clerk. The application form shall be filed with the Village Clerk a minimum of seven (7) days before the meeting of the Village Board where such application shall be considered. Any application received less than seven (7) days

before action is to be taken will be held until the next meeting of the Village Board.

3. The Village Clerk shall forward the Operator's License application to the Grafton Police Department for a full background review of the applicant. The Police Chief, or his or her designee, shall prepare a report for Village Board review of the license request.

4. There is no distinction between Class A and Class B Operators licenses in the application approval/denial process.

5. In addition to the terms and conditions of Wisconsin Statutes Chapter 125 and Grafton Municipal Code Chapter 5.16, relating to the issuance of alcohol beverage Operators Licenses, the following factors are hereby established to assist the Village Board in its consideration of applications for the issuance of an Operator's License for use within the Village of Grafton.

6. An Operator's License may be denied to any applicant who:

- a. Is under the age of 18;
- b. Has not successfully completed a Responsible Beverage Training Course;
- c. Submits an incomplete application or provides false information on an application;
- d. Has an arrest or conviction record which substantially relates to the circumstances of the licensed activity. For the purposes herein, "offenses which substantially relate to the circumstances of the licensed activity" shall include, but are not limited to the following:

1. A history of two or more non-felony alcohol related convictions within the past sixty (60) months as long as the most current conviction or arrest is within the last eighteen (18) months;

2. Any non-felony drug related convictions or pending charges within the last twelve (12) months;

3. Any non-felony convictions or pending charges within the last twelve (12) months which involve resisting arrest, battery to a Police Officer or obstructing justice in direct connection to activity at a licensed alcohol establishment;

4. Two or more non-felony convictions or pending charges in the last thirty-six (36) months for disorderly behavior or domestic violence type offenses if they occurred in direct connection to activity at a licensed alcohol establishment or the use of alcohol and or illegal drugs played a role in the incident.

5. One (1) or more felony conviction(s) in the last five (5) years involving alcohol, drugs, or other behavior which substantially relates to activity at a licensed alcohol establishment;

6. Any other arrest or conviction that is reasonably determined to be substantially related to the circumstances of the licensed activity.

7. Operators License applicants that are denied a license may not re-apply for a license for six (6) months from the date of the denial.

Ord. 016, Series 2011; Ord. 019, Series 2003; Ord. 028, Series 1999, Part 1)

L. Temporary Operator's License. A temporary operator's license is issued for purposes of compliance with Wisconsin Statutes Sections 125.17(4) and 125.32(2) and 125.68(2). The Village Board may issue a temporary operator's license to persons employed by or donating their services to a non-profit corporation. The license is valid for a period of from 1 day to 14 days. There is no fee for such license. (Ord. No. 013, Series 1996, Part 1, 1996; Ord. A-518-88 Part 1 (part), 1988).

M. Provisional Operator's License. A provisional operator's license is issued for the purposes of compliance with Wisconsin Statutes Sections 125.17(5), 125.32(2) and 125.68(2). The Village Clerk may issue a provisional license, to the applicant of a regular operators license, in the event that the applicants employment begins prior to the scheduled date of approval of the regular operators license. A provisional license shall expire after 60 days or when the regular operators license is issued, whichever is sooner. The fee for such license shall be \$15.00. (Ord. No. 013, Series 1996, Part 2, 1996).

5.16.040 License applications. A. Applications for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on the form prescribed by law and shall be sworn to by the applicant. Said form shall be filed with the Village Clerk for presentation to the Village Board. On or before the first Monday in June of each year, the Village Board shall determine as to whether any or all applications so filed shall be granted or denied. Any application for license filed with the Village Clerk after April 15, of any year may be presented to the Village Board at any regular or special meeting for action, but in no event shall the license be granted by the Village Board in less than 15 days after the application for such license has been filed with the Village Clerk. (Ord. A-024-92 Part I, 1992).

B. Prior to approval of a license application under this chapter, the village clerk shall publish each application for a "Class B" license. Said notice shall be published in a newspaper having circulation within the village and designated by the village board. If the designated newspaper is a daily newspaper, notice shall be published on three successive occasions or at least one time if the designated newspaper is a weekly newspaper. Such publication shall include the name and address of the applicant, the kind of license applied for and the location of the premises to be licensed.

C. Upon the filing of the application, the applicant shall pay the village a sum for publication of the notice of the application for license as computed by the rate per folio for legal notices as established by law.

D. Within ten days of any change in any fact set out in an application for a license or permit to sell alcohol beverages the licensee or permittee shall file a written description of the changed fact with the village clerk.

E. The village clerk shall retain all applications made for licenses to sell beverages. However, the village clerk may destroy all applications more than four years old.

F. Any person may inspect applications for licenses to sell alcohol beverages retained by the village.

G. Upon issuance of a license to sell alcoholic beverages, the village clerk shall mail to the Wisconsin Department of Revenue a copy of the application for license and all information relevant to the application and the license which is required by law to be furnished by the village to the department.

H. Upon receipt of the notice required in subsection (D) of this section, the village clerk shall mail to the Wisconsin Department of Revenue a copy of any change in fact set out in the required application. (Ord. A-518-88 Part 1 (part), 1988).

5.16.050 License restrictions. A. Statutory requirements. Licenses shall be issued only to persons eligible therefore under Wisconsin Statutes Sections 125.04(5), (6), 125.33(7)(b) and 125.69(4)(b).

B. Inspection and Review. 1. The Village Clerk shall notify the Fire Inspector, Health Officer, Building, Inspector, Electrical Inspector and Plumbing Inspector of each Class "B" or "Class B" new, renewal or transfer application received. These officials shall inspect each application and premises to determine whether the premises sought to be licensed comply with the health, sanitary and safety regulations, ordinances and laws applicable thereto, including those governing buildings and sanitation in restaurants. A determination shall also be made, by the Police Department, regarding whether the applicant is a proper recipient of a license. These officials shall furnish to the Village Clerk, in writing, the information derived from such inspections and review along with a recommendation as to whether a license should be granted or denied. The Village Clerk shall forward this information to the Village Board for their review, approval or denial. No license shall be granted, renewed or transferred without a re-inspection of the premises and a report as originally required.

2. If the inspecting officials recommend the denial of the application, the procedures in 5.16.130 shall be followed as an appeal process. (Ord. A-024-92, Part III. part 1992)

C. License Quota. The number of persons and places that may be granted a "Class B" liquor license under this section is limited as provided in Wisconsin Statutes Section 125.51(4). No more than two wholesalers' fermented malt beverage licenses shall be in use in any one licensing year.

D. Corporations. No license shall be granted to any corporation which does not meet the requirements set forth in Wisconsin Statutes Sections 125.04(5) and 125.04(6).

E. Age Requirements. No license hereunder shall be granted to any person under the minimum age specified by Wisconsin Statutes pursuant to Wisconsin Statutes Sections 125.02(8m) and 125.04(5), for the consumption of alcohol.

F. Delinquent Taxes and Assessments. No license shall be issued by the Village Clerk for any premises for which personal property taxes, water and sewer bills and/or assessments of the village are delinquent and unpaid, or to any person delinquent in payment of such claims to the village. (Ord. 021, Series 2008)

G. Issuance for Sales and Sales in Dwellings Prohibited. No license may be issued to any person for the purpose of possessing, selling or offering for sale any alcoholic beverage in any dwelling house, flat or residential apartment. No person shall sell or offer to sell any alcoholic beverage in any dwelling house, flat or residential apartment.

H. Sales of Alcoholic Beverages to Intoxicated Persons. No licensee may procure for, sell, dispense or give away alcoholic beverages to a person who is intoxicated. Any licensee who violates this provision shall be subject to a forfeiture of not less than one hundred dollars nor more than five hundred dollars. (Ord. A-518-88 Part 1 (part), 1988).

5.16.060 Form and expiration of licenses. 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 licensees and, unless sooner revoked, shall expire on June 30th thereafter except as otherwise provided. The village clerk shall affix his or her affidavit as required by Wisconsin Statutes Section 125.04(4). The license shall not be delivered until the applicant shall produce and file with the clerk a receipt showing payment of the sum required therefore to the village treasurer. (Ord. A-518-88 Part 1 (part), 1988).

5.16.070 Transfer of licenses. A. As to Person.

1. Licenses to sell alcohol beverages may be transferred to persons other than the licensee if the licensee or an applicant for a subsequently granted license dies, becomes bankrupt or makes an assignment for the benefit of creditors during the license year or after filing the application. If a retail licensee becomes disabled, the village may, upon application, transfer the license to the licensee's spouse if that spouse may hold that type of license under the Wisconsin Statutes and complies with all requirements under this chapter applicable to original applicants, except that the spouse is exempt from payment of the license fee for the year in which the transfer takes place.

2. Upon the happening of any of the events under subdivision 1 of this subsection, the personal representative, the surviving spouse if a personal representative is not appointed, the trustee or the receiver may continue or sell or assign the business.

3. Business may be continued under subdivision 2 of this subsection only if the personal representative or surviving spouse is a United States citizen.

4. If the business is sold or assigned, the license may be transferred to the successor owner or assignee at no charge if:

a. He or she complies with the requirements applicable to original applicants; and

b. He or she is acceptable to the village and consent to the transfer is given by the village.

B. As to Place. Every alcohol beverage license or permit may be transferred to another place or premises within the village. An alcohol beverage warehouse permit under Wisconsin Statutes Section 125.19, a winery permit under Wisconsin Statutes Section 125.53 or an intoxicating liquor wholesaler's permit under Wisconsin Statutes Section 125.54 may

be transferred to another premises within this state. Transfers shall be made by the village upon payment of a fee of ten dollars. No retail licensee, retail permittee, intoxicating liquor wholesaler or holder of a warehouse or winery permit is entitled to more than one transfer during the license or permit year. The village shall promptly notify the Wisconsin Department of Revenue of all transfers under this subsection. (Ord. A-518-88 Part 1 (part), 1988).

5.16.080 Posting and care of license. Every license issued under this chapter shall be posted and at all times displayed as provided in Wisconsin Statutes Section 125.04(10). (Ord. A-518-88 Part 1 (part), 1988).

5.16.090 Regulation of licensed premises. A. Gambling and Disorderly Conduct Prohibited. Each licensed premises shall at all times be conducted in an orderly manner, and no disorderly, riotous or indecent conduct or gambling shall be allowed at any time on any licensed premises.

B. Employment of Underage Persons. Minors fourteen through seventeen years of age may be employed in places where alcohol beverages are stored, sold or served provided the minors are not serving, selling, dispensing or giving away alcohol beverages and they are at all times, under the immediate supervision of the licensee, a member of the licensee's immediate family who is of legal drinking age or a person holding an operator's license.

C. Safety and Sanitation Requirements. Each licensed premises shall be maintained and conducted in a sanitary manner and shall be a safe and proper place for the purpose for which used.

D. Presence on Licensed Premises of Licensee or Operator--Serving of Alcohol Beverages.

1. Pursuant to Wisconsin Statutes Sections 124.32(2) and 125.68(2), except as otherwise permitted under Wisconsin Statutes Sections 125.32(3)(b) and 125.07(3)(a)10, there shall be upon such premises at all times during operation of the business the licensee or some person who shall have an operator's license, or a member of the immediate family of the licensee who has attained the legal drinking age or operator, who shall be responsible for the acts of all persons serving as waiters or in any other manner serving fermented malt beverages or intoxicating liquor to customers.

2. No person, including underage members of a licensee's immediate family other than the licensee or agent, may serve alcohol beverages in any establishment licensed by a Class "A", Class "B", "Class A," or "Class B" license under this chapter unless he or she has an operator's license or is at least eighteen years of age and is under the immediate supervision of the licensee or agent or a person holding an operator's license, who is on the premises at the time of the service.

E. Restriction of Persons Allowed on Licensed Premises After Hours. No persons, other than employees at work, shall be allowed upon the licensed premises after closing hours. (Ord. A-518-88 Part 1 (part), 1988).

5.16.095 Prohibition of Intoxicating Liquor, Cereal Malt Beverage or any Other Alcoholic Beverage in Sexually Oriented Businesses. A. It shall be prohibited in a sexually oriented business, as defined in Section 9.35 of the Municipal Code to serve, sell, use, provide or consume any intoxicating liquor, cereal malt beverage or any other alcoholic beverage. (Ord. 005, Series 2003)

B. Penalties. Any person, partnership, or corporation who violates any of the provisions of this ordinance shall be subject to a forfeiture of Five Hundred (\$500.00) Dollars plus Court costs per violation. A separate offense and violation shall be deemed committed on each day on which a violation occurs or continues. In addition, a violation of this ordinance constitutes sufficient grounds for suspending, revoking or non-renewing an alcohol beverage license under Section 125.12, Wisconsin Statutes. (Ord. 005, Series 2003)

5.16.100 Closing hours. A. No premises for which a wholesale or retail liquor or fermented malt beverage license has been issued shall remain open for the sale of alcoholic beverages:

1. If a wholesale liquor permit, between five p.m. and eight a.m., except on Saturday when the closing hour shall be nine p.m.;

2. If a wholesale fermented malt beverage license has been issued, between nine p.m. and eight a.m.;

3. If a Class "A" or "Class A" license, between nine p.m. and six a.m.; (Ord. 001, Series 2012)

4. If a Class "B" or "Class B" license, between two a.m. and six a.m., except on Saturdays and Sundays between two-thirty a.m. and six a.m. On January 1st, the premises shall not be required to close.

B. Between twelve midnight and six a.m. no person may sell fermented malt beverages on Class "B" licensed premises in an original unopened package, container or bottle or for consumption away from the premises.

C. Hotels and restaurants whose principal business is the furnishing of food or lodging to patrons, and bowling alleys and golf courses, may remain open for the conduct of their regular business, but no intoxicating liquors or fermented malt beverages shall be sold during prohibited hours. (Ord. A-518-88 Part 1 (part), 1988).

5.16.110 Revocation or suspension of licenses. A. Any licensee or permittee who violates any portion of this chapter or does any of the following: keeps or maintains a disorderly or riotous, indecent or improper house, sells or gives away alcoholic beverages to habitual drunkards or does not possess the qualifications under this chapter or Chapter 125 of the Wisconsin Statutes to hold a license, shall be subject to suspension or revocation as provided under Wisconsin Statutes Section 125.12.

B. Any licensee who procures for, sells, dispenses or gives away alcoholic beverages to a person who is a minor under state law shall be subject to suspension as provided under Wisconsin Statutes 125.07. (Ord. A-518-88, Part 1 (part), 1988).

5.16.115 Cancellation for Non-use of License. A. Abandonment of Premises. (1) Grounds for Cancellation for Non use of License. Any Class A or Class B Fermented Malt and/or Intoxicating Liquor

Licenses granted under this Chapter may be canceled by the Village Board for the following reasons:

- a. The subject premises is not open for business within one-hundred twenty (120) days of the granting of such license; or
- b. The subject premises is not open for business for a period of one -hundred twenty (120) consecutive days or more; or
- c. The subject premises are not open for business at least fifty percent (50%) of the days within any twelve (12) month period, either within a licensing year or overlapping two (2) licensing years.

Licenses issued under this Chapter may be canceled in accordance with this section, unless after notice and hearing as provided in Subsection (2) hereof, the Village Board may determine that good cause exists for the failure of the licensee to be open for business for periods in excess of the minimums set forth herein. If such cause is found to exist, the Village Board may set such terms as it deems appropriate to the continuation of the license with respect to minimum days of operation or a time frame within which the subject premises must open for business to avoid cancellation of the subject license (s). The provisions of this section will not apply to not-for-profit organizations.

2. Notice and Hearing. Prior to the cancellation of any license, the Village Clerk shall notify the licensee in writing of the Village's intention to cancel the license for non-use and provide the licensee with an opportunity for a hearing. Such notice shall also specify the time, place and date of the hearing, which shall not be less than fifteen (15) days after the date of the notice. Such hearing shall be conducted as provided in Section 125.12(2)(b), Wisconsin Statutes, or any amendments thereto. Judicial reviews shall be provided as in Sec. 125.12(2)(d), Wisconsin Statutes, or any amendments thereto. (Ord. 033, Series 1998, Part 2).

5.16.118 Demerit Point System. A. In addition to the regulations of Chapter 125 Wisconsin Statutes, there is hereby established a point system for the purpose of guiding the Village Board in the suspension or revocation of alcoholic beverage licenses. Demerit points shall be assessed in accordance with the violation set forth herein. The demerit point system is intended to identify habitually troublesome liquor licensees who repeatedly violate State Statutes and/or Village of Grafton Municipal Ordinances and to allow the Board to take consistent action against said licensees.

B. There is hereby assigned the following demerit points for each type of violation:

<u>TYPE OF VIOLATIONS</u>	<u>DEMERIT POINTS (Per incident)</u>
Owner/Employee convicted of any violation of Chapter 961 of the Wisconsin Statutes / Uniform Controlled Substances Act, as amended from time to time	125 points

<u>TYPE OF VIOLATIONS</u>	<u>DEMERIT POINTS (Per incident)</u>
Sale of alcohol without a license or permit Wis. Stats. 125.04(1); 125.66(1) Municipal Code Section 5.16.020	100 points
Conducting unlawful business	100 points
Refusal to Allow Police Search of Premises and/or Refusal to cooperate with lawful Police investigation	150 points
Sale of alcohol to intoxicated person Wis. Stats 125.07(2) / Municipal Code Section 5.16.050(I)	100 points
Gambling/gambling paraphernalia on premises Wis. Stats. 945.04 / Municipal Code Section 5.16.090(A)	50 points
Sale of alcohol to person under the age of 21 Wis. Stats 125.07(1)	50 points
Person under age 21 on premises Wis. Stats.125.07(3)	50 points
Intoxicated Bartender	50 points
Failure to Maintain Order / Disorderly Conduct on Premises Wis. Stats 125.12(2) / Municipal Code Section 5.16.090(A)	50 points
Licensee, Agent or Licensed Operator (Bartender) not on premises at all times Wis. Stats 125.32(2); 125.68(2) / Municipal Code Section 5.16.090(D)(1)	25 points
Open After Hours, After hours consumption and/or Persons on premises after Closing Hours Wis. Stats 125.32(3) / Municipal Code Section 5.16.090 (E) & 5.16.100	25 points
Violation of Carry-out hours Wis. Stats 125.68(4)(c)(3) / Municipal Code Section 5.16.0100(E)	25 points
Other Acts: Exceeding capacity, noise complaints, etc.	25 points
Additional Penalty for Severe Offenses: There shall be an additional penalty for conduct which:	200 points
1. Results in bodily harm to any individual;	
2. Creates a substantial risk of death or bodily harm; or	
3. Involves the use of a firearm or other dangerous weapon.	
(Ord. 009, Series 2013, Part 1)	
C. Calculating violations. Demerit points shall be assessed against the holder or registered agent for a license held by a corporation, of a Wholesale, Retail or Operator's license based upon	

entry of a judgment of conviction for violating a provision of the Grafton Municipal Code or the Wisconsin State Statutes. The demerit points shall be assessed in accordance with the terms and conditions of this Chapter and shall be assessed at the expiration of the time period allowed for taking appeal of the conviction or convictions or the conclusion of any appeal in which the conviction is affirmed. Demerit points shall be assessed against the licensee based on either convictions of the licensee or for convictions of the licensee's agents or employees; provided however, that in the case of an agent or employee, an element of the offense for which such person is convicted occurred on the licensed premises or with the knowledge and consent of the licensee.

D. The Police Department shall notify the Village Board of any convictions which result in the assessment of demerit points against any licensee. Following this notification, or the filing of a complaint pursuant to Wisconsin Statutes Section 125.12, the Village Board shall hold a hearing, if required, and shall take the following action after determining the number of demerit points to be assessed against the licensee:

1. For demerit points totaling 25-149 within a 12 month period, a warning shall be given to the licensee of the consequences of additional violations.

2. For demerit points totaling 150-199 within a 12 month period, the Village Board shall suspend the license for a period of not less than 10 days nor more than 60 days.

3. For demerit points totaling 200-300 within an 18 month period, the Village Board shall suspend the license for a period of not less than 60 days nor more than 120 days.

4. For demerit points totaling over 300 within a 24 month period, the Village Board shall revoke the license.

5. Any conviction of the holder or registered agent for a license held by a corporation of the Wholesale, Retail or Operator's License, of an offense Under Chapter 125 or 139, Wisconsin Stats., or any other federal or state liquor or fermented malt beverage law, shall be considered a conviction under this subsection and shall result in the assessment of demerit points.

For purposes of this subsection, demerit points will be assessed as of the date of the violation for which a judgment of conviction is finally entered or affirmed regardless of the date on which judgment of conviction is entered or affirmed on appeal.

E. Effect of Revocation of License. 1. Whenever any license is revoked, at least twelve (12) months shall elapse before another license shall be granted to the person whose license was revoked.

2. In the case of the revocation of any license issued under the provisions of this Chapter, no refund shall be made of the license fee for the remaining unused license period.

3. Nothing in this section shall be construed to conflict with, abridge or modify the rights or procedures established for revocation or suspension of licenses in Wisconsin Statutes Section 125.12.

(Ord. 033, Series 1998, Part 3).

5.16.120 Procedure on hearing--Effect of revocation. The provisions of Wisconsin Statutes Section 125.12(1) are incorporated by reference in their entirety. Whenever the village board or circuit court revokes or suspends a license or permit or imposes a penalty on a licensee or permittee for the violation of this chapter or Wisconsin Statutes Chapter 125, the village clerk or the clerk of the circuit court shall, within ten days after the revocation, suspension or imposition of the penalty, mail a report to the Department of Revenue at Madison, Wisconsin, giving the name of the licensee, the address of the licensed premises and a full description of the penalty imposed. (Ord. A-518-88 Part 1 (part) , 1988)

5.16.130 Failure to grant license . The village board may refuse to grant a new license or renew an existing license for the causes provided in Wisconsin Statutes Section 125.12(2)(a). Prior to the time for the granting of a new license or the renewal of the existing license the Village Board shall direct the Village Clerk to notify the licensee in writing of the Village's intention not to grant or renew the license. A provision shall be made to provide the licensee with an opportunity for a hearing on this matter. The notice shall state the reasons for the intended action. The hearing shall be conducted as provided in Wisconsin Statutes Section 125.12(2)(b) and judicial review shall be as provided in Wisconsin Statutes Section 125.12(2)(d). (Ord. A-518-88 Part 1 (part), 1988; Ord A-024-92, Part IV, part 1992).

5.16.140 Violation by agent. A violation of this chapter by a duly authorized agent or employee of the licensee shall constitute a violation by the licensee or permit holder. (Ord. A-518-88 Part 1 (part), 1988).

5.16.150 Penalty. Except as otherwise provided for in this chapter, any person who himself, or by his agents or employees, violates any provisions of this chapter shall, upon conviction thereof, be subject to a forfeiture not to exceed five hundred dollars for each offense, together with the costs of prosecution and, in default of payment thereof, shall be imprisoned in the county jail of Ozaukee County until such fine and costs are paid, such imprisonment not to exceed ninety days. Each day that a violation is permitted to exist shall constitute a separate violation and be punishable as such. (Ord. A-518-88 Part 1 (part), 1988).

Chapter 5.20

AMUSEMENT AND MUSIC DEVICES*

Sections:

- 5.20.010 Definitions.
- 5.20.020 Gambling devices prohibited.
- 5.20.030 Registration of amusement and music devices.
- 5.20.040 Registration fee.
- 5.20.050 Information and investigation.
- 5.20.060 Transfer of registration.
- 5.20.070 Record keeping.
- 5.20.080 Seizure of non-registered devices.
- 5.20.090 Counterfeiting registration symbol prohibited.
- 5.20.100 Violation--Penalty.

5.20.010 Definitions. The following terms as used in this chapter shall be construed as follows:

A. "Amusement device" means any coin-operated machine commonly referred to as shooting (electric ray) games, bowling games, miniature pool and hockey, ski-ball games, and baseball games and other similar devices, the operation of which involves a skill feature and which are operated by coins but do not deliver, pay out, or emit coins, tokens, coupons, tickets, receipts, chips or other thing which may be redeemed, or exchanged for money, merchandise, or other thing of value.

B. "Gambling device" means any machine, instrument, device or thing which for a consideration affords the player an opportunity to obtain something of value, the award of which is determined by chance, even though accompanied by some skill and whether or not the prize is automatically paid by the machine, instrument, device or thing.

C. "Music device" shall be construed to mean any instrument or device which is operated by any insertion of any coin or token which may entitle the operator to music or entertainment. (Prior code SS16.07(1)).

5.20.020 Gambling devices prohibited. It is unlawful for any person to set up for operation, lease or distribute for the purpose of operation any gambling device within the village. Prior code SS16.07(2)).

5.20.030 Registration of amusement and music devices. Any person owning any amusement or music device or maintaining or permitting the maintenance of any such amusement device on premises owned by him or under his control shall register such amusement or music device as provided in this chapter. Every amusement or music device shall be registered with the village clerk by the owner or possessor thereof. (Prior code SS16.07(3)).

5.20.040 Registration fee. The registration fee for each amusement or music device shall be twenty-five dollars (\$25) per year effective July 1, 2011. (Ord. 007, Series 2011; Ord. A-167 Part 3, 1969: prior code SS16.07(4)).

5.20.050 Information and investigation. The village clerk-treasurer shall require the registrant to submit such information as may be necessary to identify the device. If the clerk, upon consultation with the village attorney and the chief of police, is satisfied that the amusement or music device is entitled to be registered, he shall issue to the registrant an appropriate registration symbol so designed as to permit secure attachment to the device registered. No person shall be entitled to register any amusement or music device unless he is of good moral character. Such registration shall remain effective until the next succeeding July 30th. (Ord. A-358-78 Part 9, 1978: prior code SS16.07(5)).

5.20.060 Transfer of registration. The village clerk-treasurer may authorize the transfer of a registration symbol from one amusement or music device to another when evidence is presented showing that the use of the device previously registered has been discontinued and that the new device to which the symbol is proposed to be attached is an amusement or music device within the definition of this chapter. A fee of one dollar shall be charged for each transfer. (Prior code SS16.07(6)).

5.20.070 Record keeping. The clerk-treasurer shall keep an appropriate record of the registration of each amusement or music device showing the name and number and such information as he shall deem necessary concerning each machine registered and also keep a similar record of any registration transfers authorized by him. (Prior code SS16.07(7)).

5.20.080 Seizure of non-registered devices. The village president, chief of police, any policeman or peace officer of this village may seize or cause to be seized any gambling device, slot machine or any amusement or music device to which there is not affixed a registration symbol as required by this chapter, and shall forthwith cause a complaint to be issued against the owner or possessor thereof for violation of this chapter and the court shall order the device so seized to be destroyed. (Prior code SS16.07(8)).

5.20.090 Counterfeiting registration symbol prohibited. No person shall counterfeit a registration symbol or shall transfer any such symbol issued by the village clerk-treasurer from one amusement or music device to another without having previously registered such transfer with the village clerk-treasurer. (Prior code SS16.07(9)).

5.20.100 Violation--Penalty. Any person who shall violate any provisions of this chapter shall, upon conviction thereof, forfeit not less than ten dollars nor more than one hundred dollars, together with the costs of prosecution. In the event of a failure to pay such forfeiture, where no showing of indigency is made, the defendant may be

imprisoned for not more than ninety days, as the court deems fit, or until such judgment is sooner paid. (Ord. A-359-78 Part 4, 1978: (Prior code SS16.07(10))).

Cross-reference: For provisions on citation deposits and enforcement officials for violations of this chapter, see SSSS1.12.020 and 1.12.030, respectively, of this code.

Chapter 5.24

DIRECT SELLERS*

Sections:

- 5.24.010 Registration required.
- 5.24.015 Adoption of state statutes by reference.
- 5.24.020 Definitions.
- 5.24.030 Exemptions.
- 5.24.040 Registration.
- 5.24.050 Investigation.
- 5.24.055 Identification cards.
- 5.24.060 Appeal.
- 5.24.070 Regulation of direct sellers.
- 5.24.080 Records.
- 5.24.090 Revocation of registration.
- 5.24.100 Penalty.
- 5.24.110 Effective date.

5.24.010 Registration required. It is unlawful to engage in direct sales within the village without being registered for that purpose as provided in this chapter. (Ord. A-434-83 Part 1(part), 1983).

5.24.015 Adoption of state statutes by reference. The Wisconsin Administrative Code, Chapter AG 127 relating to home solicitation selling is adopted and by reference made a part of this chapter with the same force and effect as though set out in full. Failure to comply with any of the provisions of such regulations shall constitute a violation of this chapter, punishable according to the penalties provided in this chapter. A copy of the Wisconsin Administrative Code AG 127 shall be on file in the office of the village clerk-treasurer. (Ord. A-501-87 Part 1, 1987).

5.24.020 Definitions. In this chapter: A. "Direct seller" means any individual who, for himself/herself, or for a partnership, association or corporation, sells goods, or takes sales orders for the later delivery of goods, at any location other than the permanent business place or residence of said individual, partnership, association or corporation, and includes, but is not limited to, peddlers, solicitors and transient merchants. The sale of goods includes donations required by the direct seller for the retention of goods by a donor or prospective customer.

B. "Permanent merchant" means a direct seller 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 this village; or

2. Has continuously resided in this village and now does business from his/her residence.

C. "Goods" includes personal property of any kind, and includes goods provided incidental to services offered or sold.

D. "Charitable organization" includes any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such.

E. "Chief of Police" means the village chief of police or his duly appointed officer. (Ord. A-434-83 Part 1(part), 1983).

5.24.030 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 goods at wholesale to dealers in such goods;

C. Any person selling agricultural products which such person has grown;

D. Any permanent merchant or employee thereof who takes orders away from the established place of business for goods regularly offered for sale by such merchant within this county and who delivers such goods in their regular course of business;

E. Any person who has an established place of business where the goods being sold are offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested a home visit by, said person;

F. Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer;

G. Any person selling or offering for sale a service unconnected with the sale or offering for sale of goods;

H. Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law;

I. Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization; provided that there is submitted to the chief of police proof that such charitable organization is registered under Section 440.41 of the Wisconsin Statutes. Any charitable organization not registered under

Section 440.41 of the Wisconsin Statutes, or which is exempt from that statute's registration requirements, shall be required to register under this chapter;

J. Any person who claims to be a permanent merchant, but against whom complaint has been made to the chief of police that such person is a transient merchant; provided that there is submitted to the chief of police proof that such person has leased for at least one year, or purchased, the premises from which he/she is conducting business, or proof that such person has conducted such business in this village for at least one year prior to the date complaint was made. (Ord. A-434-83 Part 1(part), 1983).

5.24.040 Registration. A. Applicants for registration must complete and return to the chief of police a registration form furnished by the chief of police which shall require the following information:

1. Name, permanent address and telephone number, and temporary address, if any;
2. Age, height, weight, color of hair and eyes;
3. Name, address and telephone number of the person, firm, association or corporation that the direct seller represents or is employed by, or whose merchandise is being sold;
4. Temporary address and telephone number from which business will be conducted, if any;
5. Nature of business to be conducted and a brief description of the goods offered, and any services offered;
6. Proposed method of delivery of goods, if applicable;
7. Make, model and license number of any vehicle to be used by the applicant in the conduct of his/her business;
8. Last cities, villages, towns, not to exceed three, where the applicant conducted similar business;
9. Place where the applicant can be contacted for at least seven days after leaving this village;
10. Statement as to whether the applicant has been convicted of any crime or ordinance violation related to the applicant's transient merchant business within the last five years; the nature of the offense and the place of the conviction.

B. Applicants shall for examination:

1. A driver's license or some other proof of identity as may be reasonably required;
2. A state certificate of examination and approval from the sealer of weights and measures where the applicant's business requires use of weighing and measuring devices approved by state authorities;
3. A state health officer's certificate where the applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that the applicant is apparently free from any contagious or infectious disease, dated not more than ninety days prior to the date the application for license is made.

C. 1. At the time the registration is returned, a fee of fifteen dollars (\$15.00) shall be paid to the chief of police to cover the cost of processing the registration. (Ord. 018, Series 2003)

2. The applicant shall sign a statement appointing the chief of police or his agent to accept service of process in any civil action

brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant, in the event the applicant cannot, after reasonable effort, be served personally.

3. Upon payment of the fee and the signing of the statement, the chief of police shall register the applicant as a direct seller and date the entry. The registration shall be valid for a period of one year from the date of entry, subject to subsequent refusal as provided in subsection B of Section 5.24.050. (Ord. A-434-83 Part 1 (part), 1983).

5.24.050 Investigation. A. Upon receipt of each application, the chief of police shall make and complete an investigation of the statements made in such registration.

B. The chief of police shall refuse to register the applicant if it is determined, pursuant to the investigation above, that:

1. The application contains any material omission or materially inaccurate statement;

2. Complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns, not exceeding three, in which the applicant conducted similar business;

3. The applicant was convicted of a crime, statutory violation or ordinance violation within the last five years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or

4. The applicant failed to comply with any applicable provision of subsection B of Section 5.24.040. (Ord. A-434-83 Part 1 (part), 1983).

5.24.055 Identification cards. In addition to the permit fee a charge of five dollars shall be made to the successful applicant for an identification card to be issued by the chief of police. The identification card shall have affixed to it a photograph of the applicant. No license or identification card shall be used by any person other than the one to whom it was issued. Such identification card shall be carried at all times by the registrant to whom issued when engaged in direct sales activities, and shall be exhibited whenever requested to do so by any person solicited or any police officer. The identification card shall be valid for the same period as the permit. (Ord. A-434-83 Part 1 (part), 1983).

5.24.060 Appeal. Any person denied registration may appeal the denial through the appeal procedure provided by ordinance or resolution of the village board, or, if none has been adopted, under the provisions of Sections 68.07 through 68.16 of the Wisconsin Statutes. (Ord. A434-83 Part 1 (part), 1983).

5.24.070 Regulation of direct sellers. A. Hours of operation for calling at any dwelling or other place will be ten (10:00) a.m. to six (6:00) p.m., except by appointment; (Ord. 015, Series 2010)

b. Calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers", "No Solicitors" or words of similar meaning;

c. Calling at the rear door of any dwelling place;
d. Remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.

2. A direct seller shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any goods offered for sale, the purpose of his/her visit, his/her identity or the identity of the organization he/she represents. A charitable organization direct seller shall specifically disclose what portion of the sale price of goods 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 goods.

3. No direct seller 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 direct seller 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 direct seller 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 direct seller shall expressly disclose his/her name, the name of the company or organization he/she is affiliated with, if any, and the identity of goods or services he/she offers to sell.

2. If any sale of goods is made by a direct seller, or any sales for later delivery of goods is taken by the seller, the buyer shall have the right to cancel the transaction if it involves the extension of credit or is a cash transaction of more than twenty-five dollars, in accordance with the procedure as set forth in Section 423.203 of the Wisconsin Statutes; the seller shall give the buyer two copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of Sections 423.203 (1)(a)(b) and (c), (2) and (3) of the Wisconsin Statutes.

3. If the direct seller takes a sales order for the later delivery of goods, 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. (Ord. A-434-83 Part 1 (part), 1983).

5.24.080 Records. The chief of police shall keep a record of all convictions for violations of this chapter and shall note any such violation on the record of the registrant convicted. (Ord. A-434-83 Part 1(part), 1983).

5.24.090 Revocation of registration. A. Registration may be revoked by the village board after notice and hearing, if the registrant made any material omission or materially inaccurate statement in the

application for registration, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales, violated any provision of this chapter or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling.

B. Written notice of the hearing shall be served personally on the registrant at least seventy-two hours prior to the time set for the hearing; such notice shall contain the time and place of hearing and a statement of the acts upon which the hearing will be based. (Ord. A-434-83 Part 1 (part), 1983) .

5.24.100 Penalty. Any person convicted of violating any provisions of this chapter shall forfeit not less than ten dollars nor more than one hundred dollars for each violation plus costs of prosecution. Each violation shall constitute a separate offense. (Ord. A-434-83 Part 1 (part), 1983).

5.24.110 Effective date. The ordinance codified in this chapter shall be posted in three public places in the village after its passage and it shall take effect one week after proof of posting has been filed and recorded by the clerk. (Ord. A-434-83 Part 1 (part), 1983).

* For statutory provisions on licensing of peddlers or transient merchants, see Wis. Stat. 1975 SS440.81 et seq.; for provisions on local licensing of the same, see Wis. Stat. 1975 SS440.87.

Cross-reference: For provisions on citation deposits and enforcement officials for violations of this chapter, see SSSS1.12.020 and 1.12.030, respectively, of this code.

GARAGE AND RUMMAGE SALES

Sections:

- 5.30.010 Garage and rummage sales defined.
- 5.30.020 Regulations on frequency of sales and hours of operation.
- 5.30.030 Property and setbacks.
- 5.30.040 Sale signage.
- 5.30.050 Residential sales - permit waived.
- 5.30.060 Nuisance.
- 5.30.070 Violation-Penalty.

5.30.010 Garage and Rummage Sales defined. Garage and rummage sales are defined as any display and/or sale of personal property, conducted on premises located in any residential or institutional zoned districts by the occupant and which garage or rummage sale does not require a business license or make taxable sales, leases or services.

5.30.020 Regulations on frequency of sales and hours of operation.
A. Sales may be conducted in any residential district provided that the rummage sale does not exceed four (4) consecutive days in length and is not conducted more than three (3) times per year.
B. Daily hours of operation should be from 7:00 a.m. to 7:00 p.m., with all outdoor items being picked-up by 8:00 p.m. on the final night of the rummage sale. Rummage sales (other than clean-up) will not be permitted between the hours of 7:00 p.m. and 7:00 a.m.;

5.30.030 Property and Setbacks. All tangible personal property proposed to be sold at a residential sale shall be arranged in an orderly manner on the premises, and shall in no way be arranged so as to obstruct the vision of persons using driveways, sidewalks, roadways, or entering and exiting within a neighborhood. In order to protect public safety and use of public right-of-way a minimum setback of 10 feet is recommended for all display of personal property and merchandise that is for sale on private property;

5.30.040. Sale signage. Signs advertising residential sales shall not exceed 9 square feet, shall not be placed on any public property or right-of-way including terrace areas, utility poles or other public or quasi-public infrastructure, and shall be removed within 24 hours after the close of sale.

5.30.050 Residential sales - permit waived. A permit is not required for a rummage sale.

5.30.060 Nuisance. A violation of this Ordinance is hereby determined to be a nuisance and the Village of Grafton may forthwith obtain an order from a court of competent jurisdiction ordering the abatement of such nuisance, and if the danger to the health, safety and welfare of the

public or the general harmonies character of the residential neighborhood is compromised is imminent a Village or agent may forthwith enter upon the premises and abate the nuisance.

5.30.070 Violation--Penalty. Any person who shall violate any provisions of this chapter shall, upon conviction thereof, forfeit not less than twenty-five dollars nor more than two hundred dollars, together with the costs of prosecution. In the event of a failure to pay such forfeiture, where no showing of indigence is made, the defendant may be imprisoned for no more than ninety days, as the court deems fit, or until such judgment is sooner paid.

Chapter 5.30 - Ord. 022, Series 2009.

Chapter 5.32

PUBLIC AMUSEMENTS AND SHOWS*

Sections:

- 5.32.010 License--Required.
- 5.32.020 License--Application.
- 5.32.030 Restrictions on granting licenses.
- 5.32.040 License--Fees.
- 5.32.050 License--Suspension.
- 5.32.060 Violation--Penalty.

5.32.010 License--Required. No person shall conduct, exhibit, operate or maintain within the village any circus, menagerie, carnival, play, game, contest, theatrical performance, theater, concert, athletic event of any kind or any other public amusement or show to which admission may be had by the payment of a fee or by the purchase, possession or presentation of a ticket or token obtained for money or other valuable thing, or in which a charge is made indirectly for admittance, unless a license or permit shall be obtained therefor. All such events, for the purposes of this Section, shall be referred to as "carnival/amusements". This section shall not apply to events conducted under the sole control and supervision of educational, charitable or religious organizations where the entire proceeds of such show or amusement shall be devoted to the purpose of said organization. (Ord. 029, Series 1996, Part 1, part) Prior code SS16.03(1)).

5.32.020 License--Application. A. Contents. Applications filed with the clerk under this chapter shall, in addition to such other information as the village board may from time to time require, contain the following information:

1. Name, age, residence of applicant or of principal officers if applicant is partnership, corporation or association;

2. Name, age and residence of person whom applicant shall designate as manager and previous places of employment of such person;

3. Premises where such carnival/amusement is to be located or conducted, name and residence of owner thereof and total area to be used for such purpose; (Ord. 029, Series 1996, Part 1, part)

4. Specific nature of carnival/amusement for which license is sought; (Ord. 029, Series 1996, Part 1, part)

5. The applicant shall also present to the clerk the certificate of registration issued by the Department of Industry, Labor and Human Relations. (Ord. 029, Series 1996, Part 1, part)

6. The applicant shall provide a certificate of liability insurance, naming the Village of Grafton as an additional insured, in the amount of not less than One Million Dollars (\$1,000,000) for personal injury and property damage coverage. The applicant shall indemnify and hold harmless the Village and its officers and agents and citizens against any injuries and damages which may result or arise from the conducting of the carnival/amusement. The applicant shall pay all judgments, costs and charges that may be sought against the Village or any of its officers or agents by reason of the conduct of such carnival/amusement, together with the costs of defending any such action against the Village, including actual attorney's fees. The applicant shall also provide proof of workers compensation insurance. (Ord. 029, Series 1996, Part 1, part).

B. Inspection of Premises and mechanical devices. The clerk shall refer any application filed under this section to the respective departments of police, health officer and building inspecting, who shall inspect or cause to be inspected each application to determine whether the place sought to be licensed complies with the regulations, ordinances and laws applicable thereto and is a proper place for the purpose for which it is to be used. The applicant shall indicate the date of the last state inspection of amusement rides and other mechanical devices. The Village reserves the right to require inspections of all mechanical devices that would be available to the public. All inspection costs shall be paid by the licensee. (Ord. 029, Series 1996, Part 1, part; Ord. A-412-81 Part 1, 1981; prior code SS16.03(2)).

C. Food Handlers to Obtain Health Certificate. Any person employed in such carnival/amusement for the purpose of preparing, handling or selling food or drink shall submit a copy of a health certificate as required by State Statute. (Ord. 029, Series 1996, Part 1, part)

5.32.030 Restrictions on granting licenses. No license shall be issued under this chapter unless and until it shall be found that all of the persons named in the application are of good moral character, that the proposed location complies with and conforms to all ordinances, health and fire regulations applicable thereto and is a safe and proper

place for the purpose for which it shall be used. A license shall be refused to any applicant or applicants who shall have had a license issued under this chapter revoked within two years of the date of application, nor to any person who has within five years of the date of application been convicted of a felony.

No license shall be issued for any public amusement place within a residential district. No applicant to whom a license has been refused shall make further application until a period of at least six months shall have elapsed since the last previous rejection, unless he can show that the reason for such objection no longer exists. No license shall be granted to a person under twenty-one years of age or renewed without re-inspection of the premises. (Prior code SS16.03(3)).

5.32.040 License--Fees. The fees for licenses issued under this section shall be thirty-five dollars per day for any show, event or amusement. (Ord. 029, Series 1996, Part 1, part; Prior code SS16.03(4)).

5.32.050 License--Suspension. The village president may, at any time, suspend for not more than ten days any license granted under the provisions of this chapter for disorderly or immoral conduct on the premises, or for the violation by the licensee, his agent or employees of any of the rules, regulations, ordinances or laws of the state or village governing or applying to public peace, safety, morals or general welfare. (Prior code SS16.03(5)).

5.32.060 Violation--Penalty. Any person who shall violate any provisions of this chapter shall, upon conviction thereof, forfeit not less than twenty-five dollars nor more than two hundred dollars, together with the costs of prosecution. In the event of a failure to pay such forfeiture, where no showing of indigency is made, the defendant may be imprisoned for no more than ninety days, as the court deems fit, or until such judgment is sooner paid. (Ord. A-359-78 Part 7, 1978: prior code SS16.03(6)).

Cross-reference: For provisions on citation deposits and enforcement officials for violations of this chapter, see SSSS1.12.020 and 1.12.030, respectively, of this code.

Chapter 5.44

CABLE TELEVISION FRANCHISE

Sections:

- 5.44.010 Purpose of chapter.
- 5.44.020 Short title.
- 5.44.030 Definitions.
- 5.44.040 Grant of franchise.
- 5.44.050 Application.
- 5.44.060 Franchise renewal.
- 5.44.070 Revocation.
- 5.44.080 Procedures on revocation or termination.
- 5.44.090 Other remedies.
- 5.44.100 Purchase of system by Village.
- 5.44.110 Transfer of ownership / control.
- 5.44.120 Franchise area.
- 5.44.130 Extension of service.
- 5.44.140 Acceptance and effective date of franchise.
- 5.44.150 Rate regulation.
- 5.44.160 Rate regulation procedures.
- 5.44.170 Protection of individual rights.
- 5.44.180 Acceptance fee.
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- 5.44.200 Customer service standards.
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- 5.44.360 Performance and construction bonds.
- 5.44.370 Security fund.
- 5.44.380 Work performed by others.
- 5.44.390 Indemnity.
- 5.44.400 Insurance.
- 5.44.410 Waiver of charges.
- 5.44.420 Protection of non-subscribers.
- 5.44.430 Grantee rules.
- 5.44.440 Unauthorized reception or use of cable services.
- 5.44.450 General.

5.44.010 Purpose of Chapter. The purpose of this Chapter is to authorize the Village of Grafton to grant a non-exclusive franchise to one or more Grantees to install, maintain, and operate within the Village a cable television system for the distribution of television signals, frequency-modulated radio signals and any other electronic signals capable of being transmitted on a coaxial or fiber optic network including data transmission and closed circuit television programs, provided that the Grantee conforms to the conditions, limitations, and requirements of this Chapter.

5.44.020 Short Title. This Chapter shall be known and may be cited as the "Grafton Cable Television Franchise Ordinance of 1997."

5.44.030 Definitions. For the purpose of this Chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number.

A. Basic Service. Any service tier which includes, at a minimum, all signals of domestic television broadcast stations provided to any subscriber (except a signal secondarily transmitted by satellite carrier beyond the local service area of such station), any public, educational, and governmental programming required by the franchise, and any additional video programming signals or service added to the tier by the Grantee.

B. Cable Act. Title VI of the Communications Act of 1934, as amended, 47 U.S.C. § 151, et seq., and all other provisions of the Cable Communications Policy Act of 1984, Pub. L. No. 98-549, the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, and the Telecommunications Act of 1996, Pub. L. No. 104-104.

C. Cable Operator. Any person or group of persons who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such a cable system or who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.

D. Cable Service. The one-way transmission to subscribers of video programming, or other programming service; and, subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

E. Cable Television System, Cable System, or System. Any facility owned by a cable operator consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include: (i) a facility that services only to retransmit the television signals of one or more television broadcast stations; (ii) a facility that serves subscribers without using any public right-of-way; (iii) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, as

amended, except that such facility shall be considered a cable system to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services; (iv) an open video system that complies with Section 653 of the Cable Act, including any amendments thereto, or (v) any facilities of any electric utility used solely for operating its electric utility systems.

F. Channel. A portion of the electromagnetic frequency spectrum, or any other means of transmission (including, without limitation, optical fibers or any other means now available or that may become available), which is capable of carrying a video signal, an audio signal, a voice signal, or a data signal or any other electronic signal.

G. Village Board of Trustees or Village Board. The present governing body of the Village or any successors to the legislative power of said body or any duly appointed designee thereof.

H. Control. The power or authority to direct or cause the direction of the management and policies of the Grantee.

I. Converter. An electronic device that will shift any television channel(s) from one to another within the UHF or VHF frequency spectrum.

J. Cost-of-Service Showing. A rate filing in which the Grantee seeks to justify a rate above the FCC's reasonable rate standard.

K. Dwelling Unit. A building or that part of a building used as a home or residence.

L. Extended Basic Service. Any video programming provided over a cable system, regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than: (i) video programming carried on the basic service tier; (ii) video programming offered on a pay-per-channel or pay-per-program basis; or (iii) a combination of multiple channels of pay-per-channel or pay-per-program video programming offered on a multiplexed or time-shifted basis so long as the combined service consists of commonly-identified video programming and is not bundled with any regulated tier of service.

M. FCC. The Federal Communications Commission, its designee, or any successor thereto.

N. Franchise. An initial authorization, or renewal thereof issued by the Village, as franchising authority, to a Grantee to construct or operate a cable system.

O. Franchise Agreement. A contractual agreement entered into between the Village and any Grantee hereunder which is enforceable by the Village and said Grantee and which sets forth the rights and obligations between the Village and said Grantee in connection with the franchise.

P. Franchise Fee. Any tax, fee, or assessment the Village imposes on the Grantee solely because of the Grantee's status as such. The term "franchise fee" does not include: (i) any tax, fee, or assessment of general applicability (including any such tax for or assessment imposed on both utilities and cable operators or their services, but not including a tax, fee or assessment which is unduly

discriminatory against the Grantee); (ii) capital costs which are required by the franchise to be incurred by Grantee for educational or governmental access facilities; (iii) requirements or charges incidental to the awarding or enforcing of the franchise, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties or liquidated damages; or (iv) any fee imposed under Title 17, United States Code.

Q. Grantee. A person to whom a franchise under this Chapter is granted and the lawful successors or assigns of such person.

R. Gross Revenues. Any and all revenues derived directly or indirectly by a Grantee, its affiliates, subsidiaries, parents, or any person in which the Grantee has a financial interest from or in connection with the operation of the cable system pursuant to this Chapter. Further, annual gross revenues includes compensation in whatever form, derived from all cable services, cable operations, and cable-related activities within the franchise area including, but not limited to, (i) revenues from subscriber rates, pay television, premium channels, service tiers, service clusters, institutional networks, on-air advertising, installations, reconnections, or similar fees; (ii) rebates or commissions received from travel, home shopping or similar services, or commercial access; and (iii) any, and all, compensation from all ancillary cable services, cable operations, and cable-related activities within the franchise area.

S. Normal Business Hours. Those hours during which similar businesses in the Village are open to serve customers. In all cases, "normal business hours" must include some evening hours at least one night per week and some weekend hours.

T. Normal Operating Conditions. Those service conditions which are within the control of the cable operator. Those conditions which are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

U. Person. Any natural person or any association, firm, partnership, joint stock company, limited liability company, joint venture, corporation, or other legally recognized entity, private or public, whether for-profit or not-for-profit.

V. Public, Educational, or Governmental Access Facilities. Channel capacity designated for public, educational, or governmental use and the facilities and equipment for the use of such channel capacity.

W. Service Tier. A category of cable service or other services provided by a cable operator and for which a separate rate is charged by the cable operator.

X. Street. The surface of and space above and below any public street, road, highway, freeway, lane, alley, court, sidewalk, parkway or drive, or any public right-of-way, now or hereafter existing as such within the Village.

Y. Subscriber. Any person legally receiving any service provided by a Grantee pursuant to this Chapter.

Z. Video Programming. Programming provided by, or generally considered comparable to, programming provided by a television broadcast station.

AA. Village. The Village of Grafton, Wisconsin or any duly appointed designee thereof, including, but not limited to, the Village Board.

5.44.040 Grant of franchise. A. Grant. In the event the Village shall grant to a Grantee or renew a nonexclusive, revocable franchise to construct, operate, maintain and reconstruct a cable system within the franchise area, said franchise shall constitute both a right and an obligation to provide the service of a cable system as required by this Chapter and by the terms of the franchise agreement.

B. Franchise Required. Subject to federal and state law, no cable operator shall be allowed to occupy or use the streets within the incorporated limits of the Village without a franchise granted in accordance with the provisions of this Chapter.

C. Franchise Nonexclusive. Any franchise granted under this Chapter shall be revocable and nonexclusive. The Village reserves the right to grant a similar franchise to any person at any time.

D. Revisions. Any franchise granted under this Chapter is hereby made subject to any revisions of this Chapter and the general ordinances of the Village, provided that such revisions do not materially and adversely alter the Grantee's obligations or impair the Grantee's rights set out in any franchise agreement.

E. Term. The term of any new or renewal franchise granted under this Chapter shall be established in the franchise agreement; provided, however, that in no event shall any franchise granted under this Chapter exceed the term of fifteen (15) years.

F. Mortgage or Pledge of System. Nothing in this Chapter shall be deemed to prohibit a Grantee from mortgaging or pledging of its system or any part thereof. However, any such mortgage or pledge shall be subject to and subordinate to the right of the Village under this Chapter, any franchise agreement or applicable laws.

G. Previous Rights Abandoned. The franchise shall be in lieu of any and all other rights, privileges, powers, immunities, and authorities owned, possessed, controlled or exercisable by the Grantee or any successor pertaining to the construction, operation, maintenance or reconstruction of a cable system in the Village. The acceptance of the franchise shall operate, as between the Grantee and the Village, as an abandonment of any and all of such rights, privileges, powers, immunities and authorities within the Village. All construction, operation, maintenance and reconstruction by the Grantee of any cable system in the Village shall be under this Chapter and the franchise agreement and not under any other right, privilege, power, immunity or authority.

H. Subject to Other Regulatory Agencies Rules and Regulations. The Grantee shall at all times during the life of the franchise be subject to all lawful exercise of the police power by the Village and other duly authorized regulatory state and federal bodies and shall

comply with any and all codes which the Village has adopted or shall adopt applying to the public generally and to other Grantees.

I. Pole Use Agreements Required. The franchise shall not relieve the Grantee of any obligation involved in obtaining pole- or conduit-use agreements from the gas, electric and telephone companies, or others maintaining poles or conduits in the streets of the Village, whenever the Grantee finds it necessary to make use of such poles or conduits.

J. No Right of Property. Anything contained herein to the contrary notwithstanding, the franchise shall not impart to the Grantee any right of property in or on Village-owned property.

K. Use of Grantee's Facilities. The Village shall have the right to install and maintain, free of charge, upon the poles and within the underground pipes and conduits of the Grantee, any wires and fixtures desired by the Village to the extent that such installation and maintenance does not interfere with existing and future operations of the Grantee.

L. Franchise Binding. Anything contained herein to the contrary notwithstanding, all provisions of this Chapter shall be binding upon the Grantee, its successors, lessees or assignees.

5.44.050 Application. A. Application. All applicants for a franchise under this Chapter shall prepare and file a written application with the Village in such form as the Village shall designate.

B. Franchise Renewal Applicants. All applicants seeking to renew a franchise under this Chapter shall seek such renewal in accordance with the Cable Act.

C. Review of Application. Upon receipt of an application under this Chapter, the Village shall review the same and make the application available for public inspection at such places as the Village shall designate. A decision shall be made on the application by the Village after evaluation thereof. The Village may grant one (1) or more franchises, or may decline to grant any franchise.

5.44.060 Franchise renewal. A. Renewal Request. The Village shall determine whether to renew a franchise granted under this Chapter in the event that the Grantee files a written request for such a renewal. The Grantee shall submit such a request at least thirty (30) -- but no sooner than thirty-six (36) -- months, before the expiration of the franchise. At the time of such request, the Village may revise this Chapter, reevaluate the needs of the community for cable service, and review the performance of the Grantee. The Village shall conduct any proceedings necessary to consider the renewal request.

B. Renewal Criteria Where Cable Act Applies. To the extent applicable, the Cable Act shall govern the procedures and standards for renewal of any franchise awarded pursuant to this Chapter. Accordingly, the Village shall renew or extend a franchise unless it finds that:

1. The Grantee has not substantially complied with the material terms of this Chapter, the franchise agreement, or with applicable law, or its officers have been convicted of a felony;

2. The quality of the Grantee's service, including signal quality, response to consumer complaints, and billing practices, but without regard to the mix or quality of cable services or other services provided over the system, has been unreasonable in light of community needs;

3. The Grantee lacks the legal, technical, or financial ability to provide the services, facilities, and equipment it proposes to provide;

4. The service, facilities, and equipment the Grantee proposes to provide are unreasonable in light of the community need for and cost of such services, facilities, and equipment; or

5. The proposals contained in the renewal application are otherwise unreasonable.

C. Renewal Where Cable Act Does Not Apply. To the extent that the Cable Act is not applicable, the Village in its sole discretion and judgment shall have the right to grant, deny or conditionally grant renewal of a franchise, provided that the Village shall not unreasonably refuse to renew the franchise or unreasonably condition the renewal. The conditions the Village may place on its approval shall include, but are not limited to: remedy of historical or existing violations of the franchise or ordinance; payment of all fees and penalties owed by the Grantee at the time of the renewal; acceptance of any updated ordinance; and acceptance of any updated franchise agreement.

5.44.070 Revocation. A. Village's Right to Revoke and Grounds Therefore. In addition to all other rights which the Village has pursuant to law or equity, the Village reserves the right to revoke, terminate or cancel any franchise granted under this Chapter, in the event that one or more of the following occur, each of which shall be deemed a material breach of the franchise:

1. The Grantee violates any material provision of this franchise or its franchise agreement with the Village; or

2. The Grantee violates any state or federal law applicable to the Grantee's operation within the Village; or

3. The Grantee practices any fraud or deceit upon the Village or a subscriber; or

4. The Grantee becomes insolvent, unable or unwilling to pay its debts, or is adjudged as bankrupt; or

5. The Grantee ceases to provide service over the cable system for a period exceeding fourteen (14) days for any reason within the Grantee's control or abandons the management and/or operation of the system; or

6. The Grantee materially misrepresents a fact in the application for or negotiation of, or renegotiation of, or renewal of, its franchise.

B. Notice and Opportunity to Cure Prior to Revocation. In the event that the Village determines that the Grantee has committed a material breach of the franchise, the Village may make a written

demand on the Grantee that the Grantee cure such breach and inform the Grantee that continued breach may be cause for revocation. If the breach is not cured to the satisfaction of the Village within thirty (30) days following such demand, the Village may revoke the Grantee's franchise and terminate the franchise agreement pursuant to the revocation procedures set out in Section 8.

C. Notice and Opportunity for Hearing. The Village shall not revoke any franchise without giving the Grantee reasonable notice and opportunity for a public hearing before the Village Board.

D. Revocation Resolution. In the event that the Village determines to revoke a Grantee's franchise under this Section, the Village shall, by resolution, declare that the Grantee's franchise is terminated and any security fund and bonds forfeited and shall undertake the revocation procedures set out in Section 8.

5.44.080 Procedures on revocation or termination. A. Removal of Facilities/Continued Operation. In the event that a Grantee's franchise is revoked, expires, or is otherwise terminated, the Village may order the Grantee to remove its facilities from the franchise area within ninety (90) days of the date of such order, or the Village may require the Grantee to continue operating its cable system for a period not to exceed twenty-four (24) months as indicated in Subsection (d) below.

B. Restoration of Property. In removing its facilities from the franchise area, the Grantee shall refill, at its own expense, any excavation it makes and shall leave all public ways and places in as good condition as that prevailing prior to the Grantee's removal of its facilities without affecting the electrical or telephone cables, wires, or attachments. The Grantee's insurance, indemnity obligations, performance bond(s) and security fund(s) required by this Chapter and by the franchise agreement shall continue in full force and effect during the period of removal and until full compliance by the Grantee with the terms and conditions of this Section.

C. Restoration by Village, Reimbursement of Costs. If the Grantee fails to complete any work required by Subsections (a) and/or (b) above, or any other work required by the Village within thirty (30) days after receipt of written notice, and to the satisfaction of the Village, the Village may cause such work to be done and the Grantee shall reimburse the Village for the cost thereof within thirty (30) days after receipt of an itemized list of such costs, or the Village may recover such costs through the security fund or bonds provided by Grantee. The Village shall be permitted to seek legal and equitable relief to enforce the provisions of this Section.

D. Extended Operation. Subject to federal, state and local law, upon either the expiration or revocation of a franchise, the Village may require the Grantee to continue to operate the cable system for a defined period of time not to exceed twenty-four (24) months from the date of such expiration or revocation. The Grantee shall, as trustee for its successor in interest, continue to operate the cable system under the terms and conditions of this Chapter and the franchise agreement and to provide the regular cable service and any of the other services that may be provided at that time.

5.44.090 Other Remedies. A. Lesser Remedies. Nothing shall prohibit the Village from invoking lesser remedies than revocation for violations of the provisions of this Chapter or the franchise agreement, including imposing monetary damages as set out in Subsection (c) below.

B. Notice and Opportunity to Cure Prior to Imposition of Monetary Damages. In the event that the Village determines that the Grantee has failed to perform any material obligation under this Chapter or the franchise agreement, the Village may make a written demand on the Grantee that the Grantee cure such breach and inform the Grantee that continued breach may be cause for the imposition of monetary damages. If the breach is not cured to the satisfaction of the Village within thirty (30) days following such demand, the Village may impose monetary damages on the Grantee as set out in Subsection (c).

C. Monetary Damages. If after notice to the Grantee and opportunity for hearing, the Village determines that the Grantee has failed to perform any material obligation under this Chapter or the franchise agreement, or fails to do so in a timely manner, the Village may at its option, and in its sole discretion assess monetary damages against the Grantee as provided in this Subsection (c). This provision for assessment of damages is intended to be separate and apart from the Village's right to enforce the provisions of the construction and performance bonds provided for in this Chapter and is intended to be in addition to any other remedies. This provision is intended to provide compensation to the Village for actual damages. Amounts due shall be drawn from the Security Fund required in Section 37.

1. For failure to comply with any of the customer service standards adopted by the Village in this Chapter or set out in the franchise agreement, the Grantee shall pay to the Village the sum of Two Hundred Dollars (\$200.00) for each day the Grantee fails to comply.

2. For failure to furnish, maintain, or offer cable services to any potential subscriber within the territorial limits of the Village in accordance with Section 13 of this Chapter or upon order of the Village, the Grantee shall pay to the Village the sum of Two Hundred Dollars (\$200.00) for any such occurrence.

3. For failure to obtain or file evidence of required insurance or other required financial security, the Grantee shall pay to the Village the sum of Three Hundred Dollars (\$300.00) for any such occurrence.

4. For failure to provide access to data documents, records or reports to the Village as required by this Chapter, the Grantee shall pay to the Village the sum of One Hundred Dollars (\$100.00) for any such occurrence.

5. For failure to comply with applicable construction, operation, or maintenance standards, the Grantee shall pay to the Village the sum of Three Hundred Dollars (\$300.00) for any such occurrence.

6. Failure to comply with a rate decision or refund order issued by the Village, the Grantee shall pay to the Village the sum of Five Hundred Dollars (\$500.00) for any such occurrence.

5.44.100 Purchase of system by Village. A. Purchase of System by Village on Revocation. If the Village revokes the franchise for cause, the Grantee shall first offer the system for sale to the Village at an equitable price under the following procedures:

1. If the determination of an equitable price cannot be negotiated or determined by the Village and the Grantee, the price shall be determined by an impartial appraisal procedure pursuant to Ch. 788, Wis. Stats., wherein the Grantee and the Village shall each choose an appraiser and the appraisers chosen shall choose a third appraiser and the price determined by such appraisers shall be considered the equitable price at which the system will be offered to the Village. The determination of the price of the system shall be decreased by the amount of any and all damages sustained by the Village in connection with revocation, including without limitation, payment made by the Village to another person or entity to operate the system for a temporary period after revocation. The cost of the appraisal procedure shall be shared equally by the Village and the Grantee.

2. The Village shall have 90 days commencing on the day the equitable price of the system is determined either through negotiation or the appraisal procedure to exercise its option to purchase. If the Village does not exercise its option to purchase, and the system is not sold to another operator who has obtained a franchise from the Village, the Grantee, upon request by the Village, shall promptly remove all its facilities from the franchise area. While transfer of the system and franchise is being negotiated, arranged or ordered, the Grantee may be required to continue service to the public.

B. Purchase of System by Village on Nonrenewal. If the Village determines not to renew a Grantee's franchise, the Grantee shall first offer the system for sale to the Village at fair market value, determined on the basis of the system valued as a going concern but with no value allocated to the franchise itself. The following procedures shall be followed:

1. If the determination of fair market value cannot be negotiated or determined, the value shall be determined by an impartial appraisal procedure pursuant to Ch. 788, Wis. Stats., wherein the Grantee and the Village shall each choose an appraiser and the appraisers chosen shall choose a third appraiser and the valuation determined by such appraisers shall be considered the fair market value at which the system will be offered to the Village. The determination of the value of the system shall be decreased by the amount of any damages sustained by the Village in connection with non-renewal, including without limitation, payment made by the Village to another person or entity to operate the system for a temporary period after non-renewal. The cost of the appraisal procedure shall be shared equally by the Village and the Grantee.

2. The Village shall have 90 days commencing on the day the fair market value of the system is determined either through negotiation or the appraisal procedure to exercise its option to purchase. If the Village does not exercise its option to purchase, and the system is not sold to another operator who has obtained a franchise from the Village, the Grantee, upon request by the Village, shall promptly remove all its facilities. While transfer of the system and franchise is being negotiated, arranged or ordered, the Grantee may be required to continue service to the public.

5.44.110 Transfer of ownership or control. A. Transfer of Franchise. Any franchise granted under this Chapter shall be a privilege to be held for the benefit of the public. Any franchise so granted cannot, in any event, be sold, transferred, leased, assigned or disposed of by any method, including, but not limited to, forced or voluntary sale, merger, or consolidation, either in whole or in part, without the prior written consent of the Village, and then only under such reasonable conditions as the Village may establish. Such consent as required by the Village, shall be given or denied no later than 120 days following any request, and shall not be unreasonably withheld. Prior consent shall not be required when transferring the franchise between wholly-owned subsidiaries of the same entity.

B. Notice to Village on 20% Change of Ownership or Control. A Grantee shall promptly notify the Village in writing of any proposed change in, or transfer of, control of the Grantee. For the purpose of this Subsection, a change in, or transfer of, control shall occur on the acquisition or transfer by any person of twenty (20) percent or more of the beneficial ownership interest in the Grantee.

C. Consent of Village Required on 51% Change of Ownership or Control. In the event that any person or group of persons acquires or transfers 51% or more of the beneficial ownership interest in the Grantee, Grantee's franchise shall be subject to cancellation unless and until the Village shall have consented in writing to the acquisition or transfer. The Village shall give or deny consent no later than one hundred and twenty (120) days after receiving written notice of the acquisition or transfer. The Village's consent shall not be unreasonably withheld. For the purpose of determining whether it shall consent to such change, transfer or acquisition of control, the Village may inquire into the qualifications of the prospective controlling party, and the Grantee shall assist the Village in any such inquiry.

D. Grantee's Responsibility. In seeking the Village's consent to any change in ownership or control, the Grantee shall have the responsibility to do the following:

1. To show, to the Village's satisfaction, whether the proposed purchaser, transferee, or assignee (the "proposed transferee"), which in the case of a corporation, shall include all directors and all persons having a legal or equitable interest fifty-one (51) percent or more of the voting stock (1) has ever been convicted of a felony or is presently under an indictment, investigation or complaint charging a felony; (2) has ever had a judgment in an action for fraud, deceit or misrepresentation entered

against it, her, him, or them by any court of competent jurisdiction; or (3) has pending any legal claim, lawsuit or administrative proceeding arising out of or involving a cable system.

2. To establish, to the Village's satisfaction, the financial solvency of the proposed transferee by submitting all current financial data for the proposed transferee which the Grantee was required to submit in its franchise application, and such other data as the Village may request, where the same shall be audited, certified and qualified by a certified public accountant.

3. To establish, to the Village's satisfaction, that the legal, financial and technical capability of the proposed transferee is such as shall enable it to maintain and operate the cable system for the remaining term of the franchise under the existing franchise terms.

E. Effect of Village's Consent to Transfer. The consent or approval of the Village to any transfer by the Grantee shall not constitute a waiver or release of the rights of the Village in and to the streets, and any transfer shall by its terms, be expressly subject to the terms and conditions of any franchise. The Grantee shall not be released from its obligations under this Chapter and the franchise agreement without the express written consent of the Village.

F. Transfer Document to be Filed with Village. A Grantee, upon transfer, shall within sixty (60) days thereafter file with the Village a copy of the deed, agreement or other written instrument evidencing such sale, transfer of ownership or control or lease, certified and sworn to as correct by the Grantee.

5.44.120 Franchise area. A Grantee's franchise area shall be the territorial limits of the Village of Grafton as they may exist now and in the future.

5.44.130 Extension of service. A. Mandatory Extension of Service. The Grantee shall, at its expense, extend its system to serve new customers within the franchise area pursuant to the following requirements:

1. The Grantee shall extend and make cable television service available to any households or areas existing or added to the franchise territory during the term of the franchise. This service shall be extended within one (1) year wherever density reaches twenty (20) dwelling units per strand mile.

2. Without regard to density of dwelling units, the Grantee shall extend and make cable television service available to any dwelling unit in all unserved, developing areas within three hundred (300) feet of existing cable plant.

B. Non-Mandatory Extension of Service. In areas not meeting the requirements for mandatory extension of service under Subsection (a), the Grantee shall provide to any potential subscriber desiring service an estimate of the cost to extend service to the potential subscriber. The Grantee shall extend service upon request of the potential subscriber. The Grantee shall cooperate with the potential subscriber in reaching a cost-sharing agreement, which shall provide that the Grantee will pay one hundred (100) percent of the cost of the

first three hundred (300) feet of the extension and that the Grantee will pay sixty (60) percent and the potential subscriber forty (40) percent of the cost of the next three hundred (300) feet of the extension, up to a maximum of six hundred (600) feet. For that part of an extension that is longer than six hundred (600) feet, the Grantee may charge the potential subscriber for the Grantee's actual cost of that portion of the extension. Within one year, any amount paid by a subscriber for an extension under this subsection shall be refundable to that subscriber in the event the area subsequently meets the requirements for mandatory extension under Subsection (a). In no event, shall the amount of the refund exceed the amount paid by the subscriber for the extension.

C. New Subdivisions.

1. To expedite the process of extending the cable system into a new subdivision, the Village will forward to the Grantee an approved engineering plan of each project. Subject to the density requirements set out above in Subsection (a)(i), the Grantee shall commence the design and construction process upon receipt of the plan.

2. In a new subdivision where utility and cable facilities are to be placed underground, the developer shall give the Grantee at least thirty (30) days advance written notice of the date on which open trenching will be available for the Grantee's installation of conduit, pedestals and/or vaults, and laterals to be provided at the Grantee's expense. The Grantee shall provide specifications as needed for trenching and shall place its facilities in the trenches on the date specified in the notice. Costs of trenching and easements required to bring cable service to the new subdivision shall be non-discriminatory and shall be paid by the Grantee.

D. Special Agreements. Nothing in this Chapter shall be construed to prevent the Grantee from serving areas not covered under this Section upon agreement with developers, property owners, or residents, provided that five (5) percent of the gross revenues derived from such service within the franchise area are returned to the Village as required under Section 19 of this Chapter.

5.44.140 Acceptance and effective date of franchise.

A. Effective Date. Any franchise awarded under this Chapter shall take effect thirty (30) days after the effective date of the franchise agreement between the Village and the Grantee provided that the Grantee has accepted the franchise pursuant to Subsection (b).

B. Acceptance. To accept a franchise granted under this Chapter, a Grantee must file any required bonds, funds and proof of insurance, as well as written notice of acceptance, with the Village Administrator.

C. Written Notice of Acceptance. The Grantee's written notice of acceptance shall include a certification that the Grantee agrees to the following:

1. Grantee to Have No Recourse. The Grantee shall have no recourse whatsoever against the Village for any loss, cost, expense or damage arising out of any provision or requirement of this Chapter

or its regulation or from the Village's exercise of its authority to grant additional franchises.

2. Acceptance of Power and Authority of Village. The Grantee expressly acknowledges that in accepting the franchise it has relied upon its own investigation and understanding of the power and authority of the Village to grant this franchise.

3. Inducements Not Offered. The Grantee acknowledges by acceptance of the franchise that it has not been induced to enter into this franchise by any understanding or promise or other statement, whether verbal or written, by or on behalf of the Village concerning any term or condition of this franchise that is not included in this Chapter.

4. Grantee Accepts Terms of Franchise. The Grantee acknowledges by the acceptance of the franchise that it has carefully read its terms and conditions and it is willing to and does accept all the obligations of such terms and conditions and further agrees that it will not set up as against the Village the claim that any provision of this Chapter as adopted, is unreasonable, arbitrary, invalid or void, but shall be required to accept the validity of the terms and conditions of the franchise in their entirety.

5.44.150 Rate regulation. A. Village Reserves Right of Rate Regulation. Except as otherwise provided in Subsection (b), below, the Grantee shall establish rates for its services which shall be applied on a nondiscriminatory basis in the franchise area. Pursuant to federal law, the Village reserves the right to assume regulation of rates paid by cable subscribers; such rate regulation shall be performed by the Village Board in accordance with FCC Rules and Regulations "Part 76, Subpart N." As specified by the FCC's Rules (Part 76, Subpart N), such rate regulation shall cover basic service rates and customer premises installations and equipment rates (including charges for, but not be limited to, converter boxes, remote control units, connections for additional television receivers and other cable home wiring). The Village reserves the right to further regulate rates pursuant to any additional powers granted it by either the FCC or federal or state law.

B. Service Disconnection. A subscriber shall have the right to have its service disconnected without charge, except for actual costs incurred by the Grantee or other charges that are allowable under FCC regulations, which shall include the removal of any equipment owned by the Grantee from the subscriber's residence. Such disconnection shall be made as soon as practicable and in no case later than thirty (30) days following written notice to the Grantee of same. No Grantee shall enter into any agreement with a subscriber which imposes any charge following disconnection of service, except for reconnection and subsequent monthly or periodic charges, and those charges shall be no greater than charges for new customers. This Section shall not prevent a Grantee from refusing service to any person because of the Grantee's prior accounts with that person which remain due and owing.

5.44.160 Rate regulation procedures. A. Notice of Certification. In the event that the Village assumes rate regulatory powers, the Village shall notify the Grantee of the Village's FCC Certification. Upon receipt of such notification by the Grantee, basic service rate regulation shall become effective.

B. Initial Rate Filing. Within thirty (30) days of the receipt of the Village's notice of certification, the Grantee shall file for review by the Village the Grantee's rates for basic service, installation and equipment and supporting documentation on the appropriate FCC forms.

C. Subsequent Rate Filings. Once the Grantee's initial rates for basic service, installation, and equipment have been established based on the Village's review of the Grantee's initial rate filing, the Grantee shall not file to change such rates more often than allowed under applicable federal law. The Grantee shall file all requests to change rates for basic service, installation, and equipment using the appropriate FCC forms and give written notice of such filing to all subscribers at least thirty (30) days before the Grantee desires the change to take effect. The notice shall state the precise amount of any rate change and briefly explain the reasons for the rate change. The Grantee shall not increase its rates for basic service, installation and equipment without the approval of the Village Board.

D. Review of Initial and Subsequent Rate Filings.

1. Expedited determination. If the Village Board is able to determine expeditiously that the rates proposed in an initial or subsequent rate filing are reasonable as determined under FCC regulations, the Village Board shall: (1) afford interested persons an opportunity to express their views on the proposed rates; and (2) adopt a resolution approving the proposed rates within thirty (30) days from the date the Grantee submitted its rate filing to the Village. If the Village Board takes no action within thirty (30) days from the date the Grantee submitted its rate filing to the Village, the proposed rates will go into effect.

2. Extended review period. If the Village Board is unable to determine within thirty (30) days from the date the Grantee submitted its rate filing to the Village whether the proposed rates are reasonable as determined under FCC regulations based on the material submitted by the Grantee, the Village Board shall, by resolution, invoke the following additional periods of time, as applicable, to make a final determination: (1) ninety (90) days if the Village Board needs more time to ensure that the proposed rates are reasonable; and (2) 150 days if the Grantee has submitted a cost-of-service showing.

3. Rate increase tolled. A proposed rate increase is tolled during the extended review period.

4. Delayed determination. If the Village Board has not made a decision within the additional 90- or 150-day period, the Village Board shall issue a brief written order at the end of the period requesting the Grantee to keep accurate account of all amounts received by reason of any proposed rate increase and on whose behalf the amounts are paid. The Grantee may put the proposed rates into

effect, subject to subsequent refund if the Village Board later issues a written order disapproving any portion of the proposed rates.

5. Public hearing. During the extended review period and before taking action on the proposed rates, the Village Board shall hold at least one public hearing at which interested persons may express their views and record objections. Said public hearing shall be announced by written notice published in a newspaper of general circulation at least ten (10) days before the date of hearing. An interested person who wishes to make an objection to the proposed rates may request the Village to record the objection during the public hearing or may submit the objection in writing anytime before the rate order is issued. In order for an objection to be made part of the record, the objector must provide the Village with the objector's name and address.

6. Notice and opportunity to comment. The Village Board shall not disapprove any portion of the proposed rates without giving the Grantee notice and an opportunity to comment.

7. Refunds. As specified in the FCC regulations, the Village Board may order the Grantee to refund to subscribers that portion of previously paid rates which have been found to be unreasonable. Before ordering the Grantee to refund previously paid rates to subscribers, the Village Board shall give the Grantee notice and opportunity to comment. The method for paying any refund and the interest rate thereon shall be in accordance with FCC regulations.

8. Written decision and public notice. The Village Board's decision concerning a requested rate increase shall be by written decision. If the rate increase proposed by the Grantee is disapproved in whole or in part, or if objections were made by other parties to the proposed rate increase, the written decision shall state the reasons for the decision and the Village Board shall give public notice of its decision. Public notice will be given by advertisement once in the official newspaper of the Village of Grafton.

E. Proprietary Information. To aid in the evaluation of the Grantee's proposed rates, the Village Board may require the production of proprietary information, and in such cases will apply procedures for maintaining the confidentiality of such information which are consistent with applicable federal and state law.

F. Appeal. The Village Board's decision concerning rates for basic service, installation, and equipment, may be appealed to the FCC in accordance with applicable federal regulations.

5.44.170 Protection of individual rights.

A. Discriminatory Practices Prohibited.

1. A Grantee shall not refuse cable television service or otherwise discriminate against any person or organization who requests such service on the basis of race, color, religion, national origin, creed or sex. A Grantee shall not, as to rates, charges, service facilities, rules, regulations or in any other respect, make or grant any unreasonable preference or advantage, nor subject any person to any prejudice or disadvantage. The Grantee shall comply at all time with the Cable Act and all other applicable federal, state and local

laws and regulations, and all executive and administrative orders relating to non-discrimination which are hereby incorporated and made part of this Chapter by reference.

2. This Section shall not be deemed to prohibit promotional rates for service introductions or temporary promotional discounts. This Section does not preclude a Grantee from offering special services or rates to senior citizens, or services to commercial subscribers at rates different from those charged residential subscribers, which shall include, but not be limited to, charges for installation on a time and material basis. The Grantee may also enter into separate contracts with multiple dwelling unit buildings and may charge discounted rates for services based upon single point billing or other contractual considerations.

B. Fairness and Equal Access. A Grantee's system shall be operated in a manner consistent with the principles of fairness and equal access to its facilities, equipment, channels, studios and other services for all citizens, businesses, public agencies or other entities having a legitimate use for the system and no one shall be arbitrarily excluded from its use. Allocation of use of such facilities shall be made according to the rules or decisions of regulatory agencies affecting the same, and where such rules or decisions are not effective to resolve a dispute between conflicting users or potential users, the matter shall be submitted for resolution by the Village.

C. Equal Employment. A Grantee shall strictly adhere to the equal employment opportunity requirements of federal, state and local laws and regulations in effect on the date of the franchise grant, and as amended from time to time.

D. Discontinuation of Service. If a subscriber fails to pay any proper fee or charge for any service provided by the Grantee, the Grantee may discontinue said service, provided that the unpaid bill is at least forty-five (45) days past due and the subscriber has been given at least ten (10) business days prior notice of the intention to discontinue service. If the Grantee receives payment of all outstanding fees and charges, including any late charges, before any service has been discontinued, then the Grantee shall not discontinue said service. After any service has been discontinued, upon request of the subscriber accompanied by payment in full of all fees or charges due the Grantee and the payment of an appropriate reconnection charge, if any, the Grantee shall promptly reinstate said service. Subscribers shall retain the right to deactivate their terminals, but shall continue to be responsible for charges until the Grantee is notified to terminate service. The subscriber shall not be charged any fee for the cancellation or downgrading of cable service, except in accordance with applicable FCC regulations.

E. Rights of Residents.

1. An owner or operator of an apartment building, condominium, nursing home, mobile home park, or any other rental facility may not interfere with or charge a fee for the installation of cable system facilities for the use of a lessee of said property or premises, except that such owner or operator may require: (1) installation to conform to reasonable conditions necessary to protect

the safety, appearance and functioning of the premises; (2) the Grantee, occupant, or tenant to pay for the installation, operation, or removal of such facilities; and (3) the Grantee, occupant, or tenant to agree to indemnify the owner or operator for any damages caused by the installation, operation or removal of such facilities.

2. It shall be unlawful for the Grantee to compensate or offer to compensate any person, or for any person to demand or receive compensation from the Grantee, for the placement upon the premises of such person of Grantee's facilities necessary to connect such person's premises to the distribution lines of Grantee to provide cable service to said premises.

3. Except where there is a bulk rate agreement between a landlord and the Grantee, a landlord may not discriminate in the amount of rent charged to tenants or occupants who receive cable service and those who do not.

5.44.180 Acceptance fee. Upon the grant of a new franchise, the Grantee shall reimburse the Village for all reasonable costs -- including but not limited to attorney and consultant fees -- incurred by the Village relating to the grant of the new franchise.

5.44.190 Franchise fee. A. Franchise Fee. A Grantee shall pay to the Village a franchise fee in the amount designated in the franchise agreement. Such franchise fee shall not be less than 5% of the Grantee's gross revenues, or such other maximum amount as allowed by law. In the event that a change in either state or federal law would allow the Village to increase the franchise fee above five (5) percent of the Grantee's gross revenues, the Grantee shall not be liable for such increase until the Village shall give Grantee written notice of such change in the law. The franchise fee payment shall be in addition to any other payment owed to the Village by the Grantee and shall not be construed as payment in lieu of municipal property taxes or other state, county or local taxes.

B. Payment Schedule. The franchise fee shall be paid on a bi-annual basis according to the following schedule: revenues for January through June shall be reflected in an August 15th payment and revenues for July through December shall be reflected in a February 15th payment. Unless otherwise specified in the franchise agreement, the payment period shall commence as of the effective date of the franchise or any renewal date.

C. Financial Statement to be Provided by Grantee. With each February 15th franchise fee payment, a Grantee shall furnish to the Village an audited statement certified by an independent Certified Public Accountant, reflecting the total amount of the gross revenues and all payments, deductions and computations for the period covered by the franchise fee payment. The Village shall have the right to conduct an independent audit of the Grantee's records, and if such audit indicates a franchise fee underpayment of five (5) percent or more, the Grantee shall assume all reasonable costs of such audit.

D. Interest on Delinquent Payments. If any payment is not made as required, interest on the amount due shall accrue from the date of the required submittal at an annual rate of twelve (12) percent. The Grantee shall pay an additional compensation to the Village if the payment is late by forty-five (45) days or more. Such additional compensation shall be equal to an additional six (6) percent per annum in order to defray those additional expenses and costs incurred by the Village by reason of the delinquent payment.

E. Acceptance by the Village. No acceptance of any payment by the Village shall be construed as a release or as an accord and satisfaction of any claim the Village may have for further or additional sums payable as a franchise fee under this Chapter or for the performance of any other obligation of the Grantee.

F. Alternative Fee Basis. In the event the franchise fee payment established under this Chapter is ruled unconstitutional or unenforceable, the Village may impose and collect an equivalent charge on any legally permissible basis, provided such charge does not exceed the previously allowed limit on franchise fee payments.

5.44.200 Customer service standards. A. Additional Standards May be Imposed. Nothing in this Chapter shall be construed to prohibit the Grantee and Village from agreeing to exceed the customer service standards set out in this Chapter or the establishment or enforcement of any state or local law or regulation concerning customer service or consumer protection that imposes customer service standards or consumer protection requirements that exceed the customer service standards set out in this Chapter or address matters not addressed in this Chapter.

B. Local Payment Location. The Grantee shall maintain a local Grafton or Cederburg payment location, which shall be open during normal business hours. This payment location shall accept subscriber payments.

C. Telephone Availability.

1. The Grantee shall maintain a local, toll-free or collect call telephone access line which will be available to its subscribers twenty-four (24) hours a day, seven days a week. Trained representatives of the Grantee will be available to respond to customer telephone inquiries during normal business hours. After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained representative of the Grantee on the next business day.

2. Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis.

3. The Grantee shall not be required to acquire equipment or perform surveys to measure compliance with the telephone answering

standards above unless an historical record of complaints indicates a clear failure to comply.

4. Under normal operating conditions, the customer will receive a busy signal less than three (3) percent of the time.

D. Installations, Outages and Service Calls. Under normal operating conditions, each of the following four (4) standards shall be met by the Grantee no less than ninety-five (95) percent of the time measured on a quarterly basis:

1. Standard installations will be performed within seven (7) business days after an order has been placed. "Standard" installations are those that are located up to one hundred and fifty (150) feet from the existing distribution system.

2. Excluding conditions beyond the control of the Grantee, the Grantee shall begin working on service interruptions promptly and in no event later than twenty-four (24) hours after the interruption becomes known to the Grantee. The Grantee must begin actions to correct other service problems the next business day after receiving notification of the service problem.

3. The "appointment window" alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. (The Grantee may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)

4. The Grantee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment. If the Grantee's representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

E. Repair Standards. The Grantee shall maintain a repair force of technicians who, under normal operating conditions, are capable of responding to subscriber requests for service within the following time frames:

1. System Service Interruption: Under normal operating conditions, within two (2) hours, including weekends, of receiving subscribers calls which by number identify a system service interruption of sound or picture on one (1) or more channels, affecting all the subscribers of the system or an interruption of all services to two (2) percent of all subscribers.

2. Isolated Service Interruption: Within twenty-four (24) hours, including weekends, of receiving requests for service identifying an isolated Service Interruption (less than two (2) percent of subscribers) of sound or picture for one (1) or more channels. This standard shall be met no less than ninety-five (95) percent of the time, measured on a quarterly basis.

3. Inferior Reception Quality: Within forty-eight (48) hours, including weekends, of receiving a request for service identifying a problem concerning picture or sound quality.

The Grantee shall be deemed to have responded to a request for service under the provisions of this Section when a technician arrives at the service location or contacts the customer by telephone and begins work on the problem. In the case of a subscriber not being home when the technician arrives, response shall be deemed to have taken place if the technician leaves written notification of arrival.

F. Notification of Service Interruption to Village Administrator. The Grantee shall promptly notify the Village Administrator, in writing, or, if appropriate, by oral communication, of any significant interruption in the operation of the system. For the purposes of this Section, a "significant interruption in the operation of the system" shall mean any interruption of sound or picture on one (1) or more channels of a duration of at least twenty-four (24) hours to at least 5% of the subscribers.

G. Subscriber Credit for Service Interruptions. Upon service interruption of the subscriber's cable service, the following shall apply:

1. For service interruptions of over four (4) hours and up to seven (7) days, the Grantee shall provide a credit to the subscriber of one-thirtieth (1/30) of one month's fee for affected service for each 24-hour period service is interrupted for four (4) or more hours.

2. For service interruptions of seven (7) days or more in one month, the Grantee shall provide, a credit based on the hourly rate the subscriber pays for all monthly service and the number of hours of the service interruption.

H. Upgrading of Facilities and Service. The Grantee shall upgrade its facilities and service as subscribers' demands dictate so that its system is as advanced as the current state of technology with field-proven equipment will allow.

5.44.210 Technical standards. A. Standards. The Grantee's system shall be constructed and operated so as to meet those technical and performance standards set out in the franchise agreement and as required by the FCC's rules and regulations relating to cable television systems and found in 47 C.F.R. §§ 76.601 to 76.618, as amended, from time to time.

B. Tests and Compliance Procedures. Within sixty (60) days after the effective date of the franchise agreement, the Grantee shall, upon the Village's request, submit a detailed test plan describing the methods and schedules for testing its system on an ongoing basis to determine compliance with this Chapter and the franchise agreement. The test plan shall be subject to the approval of the Village, which approval shall not be unreasonably withheld. The tests for basic cable service shall be performed at intervals of no greater than twelve (12) months. The tests may be witnessed by representatives of the Village, and the Grantee shall submit written test reports to the Village. If more than ten (10) percent of the locations tested fail to meet the performance standards, the Grantee shall be required to indicate what corrective measures have been taken, and the entire test shall be repeated. Grantee's failure to

take corrective measures within thirty (30) days after the initial tests are performed may be considered a breach of the franchise.

C. Additional Testing. At any time after commencement of service to subscribers, the Village may require the Grantee to perform additional tests, full or partial repeat tests, or tests involving service to a specific subscriber. Such additional tests will be made on the basis of complaints received or other evidence indicating an unresolved controversy or significant noncompliance with the technical standards established in this Chapter or the franchise agreement.

D. Costs of Tests. The costs of all tests required in Subsections (b) and (c) above, and retesting as necessary, shall be paid by the Grantee and may be passed through to subscribers.

5.44.220 Construction standards. A. Compliance with Safety Codes. All construction practices shall be in accordance with all applicable sections of the Occupational Safety and Health Act of 1970 and any amendments thereto as well as all state and local codes where applicable.

B. Compliance with Electrical Codes. All installation of electronic equipment shall be of a permanent nature, durable, installed and maintained in accordance with the applicable sections of the then-current edition of the National Electric Safety Code and all state and local codes where applicable.

C. Compliance with Aviation Requirements. Antennas and their supporting structures (towers) shall be painted, lighted, erected and maintained in accordance with all applicable rules and regulations of the Federal Aeronautical Administration and all other applicable federal, state, or local laws, codes and regulations governing the erection and operation of supporting structures or television towers.

5.44.230 Construction and installation. A. Approval of Proposed Construction.

1. The Grantee shall first obtain the Village's approval prior to commencing construction on the streets, alleys, public grounds or places of the Village. Applications for approval of construction shall be in a form provided by the Village.

2. The right of construction, including easements, is not implied except on locations where the Village has the authority to grant such rights and easements and then only in conformity with the provisions of this Chapter. All other rights of construction, including easements, shall be the responsibility of the Grantee.

B. Excavation Permits. The Grantee shall not open or disturb the surface of any street, sidewalk, driveway, or public place for any purpose without first having obtained all necessary permits.

C. Use of Existing Poles or Conduits. Nothing in this Chapter shall authorize the Grantee to erect and maintain in the Village, new poles where existing poles are servicing the area. The Grantee shall seek and obtain permission from the Village before erecting any new poles, underground conduit or appurtenances where none exist at the time the Grantee seeks to install or expand its system.

D. Method of Installation.

1. All wires, cables, amplifiers and other property of the Grantee shall be constructed and installed in an orderly and workmanlike manner. All cables and wires shall be installed parallel with existing telephone and electric wires whenever possible. Multiple cable configurations shall be arranged in parallel and bundled, with due respect for engineering and safety considerations.

2. All installations shall be underground in those areas of the Village where public utilities providing telephone and electric service are underground at the time of installation.

3. In areas where telephone or electric utility facilities are aboveground, the Grantee shall place its facilities underground without additional cost to the Village or to the residents of the Village (other than as may be reflected in rates charged to subscribers) at such time as such telephone and electric facilities are required to be placed underground by the Village or are placed underground. The Village shall give Grantee at least six (6) months prior notice of any construction to place telephone or electric facilities underground.

5.44.240 Proof of compliance. Upon reasonable notice by the Village, the Grantee shall demonstrate compliance with any or all of the standards and requirements imposed by this Chapter. The Grantee shall provide sufficiently detailed information to permit the Village to readily verify the extent of compliance.

5.44.260 Complaint procedures. A. Complaints to Grantee. A Grantee shall establish written procedures for receiving, acting upon and resolving subscriber complaints without intervention by the Village. The procedures shall prescribe the manner in which a subscriber may submit a complaint, either orally or in writing, to the Grantee. At the conclusion of the Grantee's investigation of a subscriber complaint, but in no event more than ten (10) days after receiving the complaint, Grantee shall notify the subscriber of the results of the investigation and its proposed action or resolution, if any. The Grantee shall also notify the subscriber of the subscriber's right to file a complaint with the Village in the event the subscriber is dissatisfied with the Grantee's decision. The Village appoints the Village Administrator as its agent to receive inquiries or complaints about the Grantee's operations.

B. Complaints to the Village. A subscriber who is dissatisfied with the Grantee's proposed decision shall be entitled to have the complaint reviewed by the Communication Commission. The subscriber shall initiate the review by filing a complaint, together with the Grantee's decision, if any, with the Village, and by the Village notifying the Grantee of the filing. The subscriber shall make such filing and notification within twenty (20) days of receipt of the Grantee's decision or, if no Grantee decision has been provided, within thirty (30) days after filing the original complaint with Grantee. The Village may extend these time limits for reasonable cause. (Ord. 013, Series 2002, Part 2)

C. Review by the Village. The Village shall determine, upon a review of a subscriber complaint and the Grantee's decision, if any, whether further action is warranted. In the event the Communication Commission does not initiate further proceedings within fifteen (15) days of the filing of the complaint, the Grantee's proposed action or resolution shall be final. If the Communication Commission decides to initiate further investigation, the Village shall require the Grantee and the subscriber to submit, within ten (10) days of notice thereof, a statement of the facts and arguments in support of their respective positions. The Communication Commission shall issue a written decision within fifteen (15) days of receipt of the statements or, if a hearing is requested, within fifteen (15) days of the conclusion of the hearing, setting forth the basis of the decision. (Ord. 013, Series 2002, Part 3)

D. Remedies for Violations. The Village may, as a part of a subscriber complaint decision issued by the Village under the provisions of this Chapter, impose monetary damages on the Grantee. Damages may be imposed only if the Village finds that the Grantee has arbitrarily refused or failed without reasonable justification to comply with the provisions of this Section.

5.44.270 Complaint file, service request log, and outage log.

A. Complaint File. A Grantee shall keep an accurate and comprehensive file of any and all complaints regarding the cable system. A Grantee shall establish a procedure to remedy complaints quickly and reasonably to the satisfaction of the Village. A Grantee shall keep complete records of its actions in response to all complaints for a period of three (3) years. The Grantee shall make a copy of its complaint file available to the Village upon request.

B. Service Request Log and Summary. The Grantee shall maintain a log and summary of all subscriber service requests, identifying the number and nature of the requests and their disposition for a period of three (3) years. A copy of such log and summaries shall be made available to the Village upon request.

C. Outage Log and Summary. A Grantee shall maintain a log and summary of all major service outages for a period of three (3) years. For the purposes of this Subsection, a "major service outage" shall mean any interruption of sound or picture on one (1) or more channels of a duration of at least twenty-four (24) hours to at least two (2) subscribers. A copy of such log and summaries shall be made available to the Village upon request.

5.44.280 Authority for use of streets. A. Use of Streets.

For the purpose of constructing, operating and maintaining a cable system in the Village, a Grantee may erect, install, construct, repair, replace, relocate, reconstruct and retain in, on, over, under, upon, across and along the streets within the Village such lines, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of the Grantee's system, provided that the Grantee applies for and obtains all

applicable permits and otherwise complies with this Chapter and all other Village codes and ordinances.

B. Filing of Plans with the Village. Prior to construction, reconstruction, upgrade, rebuild or any other major modification or change of the Grantee's system, other than routine repairs, the Grantee shall, in each case, file its plans for such work with the Village and shall not commence any such work until it receives written approval of its plans from the Village. The Village shall not unreasonably withhold its approval. Upon the Village's request, the Grantee shall provide written progress reports to the Village until the work is completed.

C. Non-Interference/Notice. The Grantee shall construct, maintain, and operate its system so as not to interfere with other uses of the streets. The Grantee shall individually notify all residents directly affected by the proposed work at least five (5) business days prior to the commencement of such work.

5.44.290 Conditions on use of streets. A. Facilities Not to be Hazardous or Interfere.

1. All wires, conduits, cables and other property and facilities of the Grantee shall be so located, constructed, installed and maintained as not to endanger any person or unnecessarily interfere with the usual and customary trade, traffic and travel upon the streets and public places of the Village.

2. The Grantee shall keep and maintain all its property in good condition, order and repair. The Village reserves the right to inspect and examine at any reasonable time and upon reasonable notice the property owned or used, in part or in whole, by the Grantee.

3. The Grantee shall keep accurate maps and records of all its facilities and furnish copies of such maps and records when requested by the Village.

4. The Grantee shall not place poles or other equipment where they will interfere with the rights or reasonable convenience of adjoining property owners, or with any gas, electric or telephone fixtures or with any water hydrants or mains. All poles or other fixtures placed in a street shall be placed in the right-of-way between the roadway and the property, as specified by the Village.

B. Restoration and Reimbursement.

1. In the event of disturbance of any street or private property by the Grantee, it shall, at its own expense and in a manner approved by the Village and the owner, replace and restore such street or private property in as good a condition as before the work causing such disturbance was done.

2. If the Grantee fails to perform such replacement or restoration, the Village or the owner shall have the right to do so at the sole expense of the Grantee. The Grantee shall make payment to the Village or owner for such replacement or restoration immediately upon demand. All requests for replacement or restoring of such streets or private property as may have been disturbed must be in writing to the Grantee.

C. Emergency Removal of Facilities. If, at any time, in case of fire or disaster in the Village, it shall become necessary in the reasonable judgment of the Village to cut or move any of the wires, cables, amplifiers, appliances or appurtenances thereto of the Grantee, such cutting or moving may be done and any repairs rendered necessary thereby shall be made by the Grantee, at its sole expense.

D. Changes Required by Public Improvements. The Grantee shall, at its expense, protect, support, temporarily disconnect, relocate in the same street or other public place, or remove from the street or other public place, any property of the Grantee when required by the Village by reason of traffic conditions, public safety, street vacation, street construction, change or establishment of street grade, installation of sewers, drains, water pipes, Village-owned power or signal lines, and tracts or any other type of structure or improvement by public agencies.

E. Requests for Removal or Change. The Grantee shall, on the request of any person holding a building moving permit, temporarily raise or lower its wires to permit the moving of such building. The expense of such temporary removal, raising or lowering the wires shall be paid by the person requesting the same, and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given notice not less than nine (9) business days prior to any move contemplated to arrange for temporary wire changes.

F. Authority to Trim Trees. The Grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and other public places of the Village so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee. All trimming is to be done under the supervision and direction of the Village after the explicit, prior written notification and approval of the Village and at the expense of the Grantee.

5.44.300 Services. A. Services Provided. The Grantee shall provide, as a minimum, the initial services listed in the franchise agreement. The Grantee shall not reduce such services without prior notification to and approval by the Village.

B. Basic Cable Service. Basic cable service, which shall include any service tier which includes the retransmission of local television signals, shall be provided to all subscribers at the established monthly subscription rates.

C. Public Educational and Government (PEG) Access Channel. Upon request by the Village, the Grantee shall provide at least four (4) channels for use by the Village for PEG purposes.

D. Cable Channel for Commercial Use. The Grantee shall designate channel capacity for commercial use as required by the Cable Act and applicable law.

5.44.310 Subscriber privacy. A. Use of Data From Subscribers. A Grantee, the Village or any other person shall not initiate or use any form, procedure or device for procuring information or data from cable subscribers' terminals by use of the

cable system, without prior written authorization from each subscriber so affected.

B. Subscriber Data. The Village, the Grantee or any person shall not, without prior written valid authorization from each subscriber so affected, provide any data identifying or designating subscribers. Any data so authorized will be made available to the authorizing subscriber in understandable fashion.

C. Subscriber Agreements. Any agreement or contract such as is necessary for (a) and (b) above shall not be part of any other contract or agreement and shall not be a condition of subscribing to the system.

D. The provisions of this Section shall not apply to any monitoring for cable system integrity or to verify billing accuracy.

5.44.320 Notices and billing. A. Operating Policies. The Grantee shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:

1. Products and services offered;
2. Prices and options for programming services and conditions of subscription to programming and other services;
3. Installation and service maintenance policies;
4. Instructions on how to use the cable services;
5. Channel positions of programming carried on the cable system;
6. The procedures for billing and making inquiries or complaints (including the name, address and local telephone number of the employee or employees or agent to whom such inquiries or complaints are to be addressed) and also furnish information concerning the Village office responsible for administration of the franchise including the name and telephone number of the office. The written information shall also include a description of the Grantee's business hours, legal holidays and procedures for responding to inquiries after normal business hours. The Grantee shall provide all subscribers and the Village with written notice no less than thirty (30) days prior to any proposed change in any of the areas listed in this Subsection.

B. Rates, Programming Service, and Channel Position. The Grantee shall provide the Village and subscribers with written notice of any changes in rates, programming services, or channel position at least thirty (30) days prior to implementing such change(s). Such notice shall state the precise amount of any rate change and briefly explain in readily understandable fashion the cause of the rate change (e.g., inflation, changes in external costs or the addition/deletion of channels). When the change involves the addition or deletion of channels, each channel added or deleted must be separately identified. Notices to subscribers shall inform them of their right to file complaints about changes in cable programming service tier rates and services, shall state that the subscriber may file the complaint within ninety (90) days of the effective date of the rate change, and shall provide the address and telephone number of the Village Administrator. Notwithstanding any other provision of this Chapter,

the Grantee shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment or charge of any kind imposed by the Village or any Federal or State agency on the transaction between the Grantee and the subscriber.

C. Billing. Bills shall be clear, concise, understandable and shall include the Grantee's toll free or collect telephone number for subscriber use. Bills shall be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills shall also clearly delineate all activity during the billing period, including optional charges, rebates and credits. In case of a billing dispute, the Grantee shall respond to a written complaint from a subscriber within thirty (30) days. Refund checks will be issued promptly, and no later than either (i) the customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or (ii) the return of the equipment supplied by the Grantee if service is terminated. Credits for service shall be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

D. Copies to the Village. Copies of all notices provided to subscribers shall be filed concurrently with the Village.

5.44.330 Quality or service. The overall quality of service provided by a Grantee to subscribers may be subject to evaluation by the Village, at least annually. In addition, the Village may evaluate the quality of service at any time, based on subscriber complaints received by the Grantee, and the Village, and the Grantee's response to those complaints. Upon determining that service quality is inadequate, the Village may order the Grantee to cure the inadequacies. The Grantee shall commence corrective action within thirty (30) days after receipt of written notice such order. Failure to do so shall be deemed to be a material breach of the franchise and subject to the remedies prescribed in this Chapter. The Village may use the performance bond and/or security fund provided for in this Chapter to remedy any such franchise breach.

5.44.340 Open books and records. The Village shall have the right to inspect, upon twenty-four (24) hours written notice, at any time during normal business hours at the Grantee's regional office all books, records, maps, plans, financial statements, all logs required under this Chapter, performance test results, record of requests for service and other like materials of the Grantee relating to the operation of the franchise. If any such books or records are not kept in the regional office, and if the Village shall determine that an examination of such records is necessary or appropriate to the performance of any of Village's duties, then the Grantee shall make such records available locally on ten (10) business days notice. When requested by the Grantee and to the extent allowed by law, the Village shall treat as confidential proprietary information or trade secrets obtained by the Village during such inspection; the Village shall make such information available only to those persons who must have access to the information to perform their duties on behalf of the Village.

5.44.350 Reports and records. A. Annual Submissions to the Village. The Grantee shall submit to the Village with each February 15th franchise fee payment a written annual report which shall include the following information:

1. A summary of the previous year's activities in development of the cable system, including, but not limited to, services begun or discontinued during the reporting year, and the number of subscribers for each class of service;

2. A gross revenues statement.

B. Submissions to the Village on Request. Upon the Village's request, the Grantee shall submit to the Village a written report which shall include the following information:

1. A list of Grantee's officers, members of its board of directors, and other principals of Grantee;

2. A list of stockholders or other equity investors holding five (5) percent or more of the voting interest in the Grantee and its parent, subsidiary and affiliated corporations and other entities, if any, unless the parent is a public corporation whose annual reports are publicly available;

3. A statement of projected construction, if any, for the next two (2) years; and

4. Accurate copies of maps and/or plats of the location and character of all existing and proposed installations of the Grantee over, upon or under the streets of the Village.

c. Other Submissions. Copies of all petitions, applications and communications submitted by the Grantee to the FCC, Securities and Exchange Commission or any other federal or state regulatory commission or agency having jurisdiction in respect to any matter affecting cable operation within the franchise area shall also be submitted simultaneously to the Village.

d. Records to be Kept on File. All records required by this Section shall be kept on file by the Grantee for the applicable periods under federal and state law.

5.44.360 Performance and construction bonds. A. Performance Bond. At the time a new franchise is granted, the Grantee shall furnish and file with the Village a performance and payment bond, or a performance and payment bond together with such other security as is approved by the Village. The bond shall be in the amount of \$10,000 and shall run to the Village, who may be entitled to damages as a result of any occurrence in the operation of or termination of the cable system operated under this Chapter and the franchise agreement. The bond shall be conditioned upon the faithful performance of the Grantee of all terms and conditions of the franchise granted under this Chapter. The rights reserved to the Village with respect to the bond or other security are in addition to all other rights the Village may have under this Chapter or any other law.

B. Construction Bond. Prior to undertaking any construction work costing \$50,000 or more relating to the franchise granted under this Chapter, the Grantee shall file with the Village a construction bond in the amount specified in the franchise agreement in favor of

the Village and any other person who may claim damages as a result of the breach of any duty by the Grantee assured by said bond. Such construction bond shall be in the form approved by the Village and issued by a company approved by the Village. In no event shall the amount of such construction bond be construed to limit the liability of the Grantee for damages. The Village may waive this requirement or permit consolidation of the construction bond with the performance bond specified above in Subsection (a).

5.44.370 Security fund. Within thirty (30) days after the effective date of the franchise, the Grantee shall be required to provide a deposit to the Village and maintain this deposit through the term of this franchise, the sum specified in the franchise agreement, as security for the Grantee's faithful performance of all of its obligations under this Chapter and the franchise agreement and for the payment for the Grantee of any claims, liens, taxes and fees due to the Village which rise by reason of construction, operation, or maintenance of the Grantee's system. Any interest earned on this deposit shall be calculated annually based upon the interest rate available to the Village from the Wisconsin Local Government Investment Pool and shall be paid to the Grantee. Any amount drawn from this account to satisfy penalties under Section 9 shall be replenished within thirty (30) days.

5.44.380 Work performed by others. The Grantee shall give prior notice to the Village specifying the names and addresses of any entity, other than the Grantee, that, within one (1) calendar year, will perform services valued at \$10,000 or more relating to the franchise, provided, however, that all provisions of the franchise remain the responsibility of the Grantee. All provisions of any franchise shall apply to any subcontractor or others performing any work or services pursuant to the provisions of the franchise. Nothing in this Section shall be construed as allowing the transfer of any rights or responsibilities of the Grantee without written approval of the Village.

5.44.390 Indemnity. A. Extent of Indemnity. The Grantee shall, by acceptance of any franchise granted, indemnify, defend and hold harmless the Village, its officers, boards, commissions, agents, and employees from any and all claims, suits, judgments, for damages or other relief, costs and attorneys fees in any way existing out of or through or alleged to arise out of or through: (1) the act of the Village in granting the franchise; (2) the acts or omissions of Grantee, its servants, employees, or agents including, but not limited to, any failure or refusal by Grantee, its servants, employees or agents to comply with any obligation or duty imposed on Grantee by this Chapter or the franchise agreement; or (3) the exercise of any right or privilege granted or permitted by this Chapter or the franchise agreement. Such indemnification shall include, but not be limited to, all claims arising in tort, contract, infringements of copyright, violations of statutes, ordinances or regulations or otherwise.

B. Notification of Claims. The Village shall notify the Grantee within ten (10) business days after the presentation of any claim or demand, either by suit or otherwise, made against the Village.

C. Defense of Claims. In the event any claims shall arise, the Village or any other indemnified party shall tender the defense thereof to the Grantee. Defense of any such claim shall be by counsel reasonably acceptable to the Village or other indemnified party. Provided, however, that the Village or other indemnified party in its sole discretion may participate in the defense of such claims at Grantee's sole expense, and in such event, such participation shall not relieve the Grantee from its duty to defend against liability or to pay any judgment entered against such party. Grantee shall not agree to any settlement of claims without Village approval.

D. Village's Negligence. The Grantee shall not be required to indemnify the Village for negligence or willful misconduct on the part of the Village's officials, boards, commissions, agents or employees.

5.44.400 Insurance. A. Liability Insurance. The Grantee shall maintain throughout the term of the franchise, and any extensions thereto, the insurance policies described below, which shall be written on an occurrence basis. Such policies shall name as an additional insured the Village, its officers, boards, commissions, agents and employees, shall be primary to any insurance carried by the Village, and shall be obtained from a company or companies approved by the Village and in a form satisfactory to the Village. Such policies shall be as follows:

1. Comprehensive General Liability Insurance. General Comprehensive Liability Insurance containing the following coverages: Premises/Operations; Products/Completed Operations; Broad Form Property Damage; Contractual Liability; Coverage for Explosion, Collapse and Underground Hazards; and Pollution Control Liability. The policy shall include limits of not less than \$1,000,000 for bodily injury (including death) and property damage for each occurrence of not less than \$2,000,000 in the aggregate.

2. Worker's Compensation. Worker's Compensation Insurance in compliance with Section 102.31 of the Wisconsin Statutes and in compliance with the laws of each state having jurisdiction over each employee.

3. Comprehensive Automobile Liability. Comprehensive Automobile Liability including owned, non-owned, and hired vehicles with limits of not less than \$1,000,000 for bodily injury (including death) and \$1,000,000 for property damage for each occurrence.

4. Umbrella Liability. Umbrella Liability with limits of not less than \$8,000,000, which shall carry the following endorsement:

It is hereby understood and agreed that despite anything to the contrary where underlying insurance, as described herein, provides greater protection or indemnity to the insured than the terms and conditions of this policy, this insurance shall pay on behalf of the insured the same terms, conditions and coverages which apply to the basic underlying insurance. Where no such broader underlying

insurance exists, this policy shall pay on behalf of the insured upon terms and conditions and limitations of the carrier's umbrella excess policy.

B. Notice of Cancellation or Reduction of Coverage. The insurance policies mentioned above shall contain an endorsement stating that the policies are extended to cover the liability assumed by the Grantee under the terms of this Chapter and the franchise agreement and shall contain the following endorsement:

It is hereby understood and agreed that this policy may not be canceled nor the amount of coverage thereof reduced until 30 days after receipt by the Village Administrator by registered mail of 2 copies of a written notice of such intent to cancel or reduce the coverage.

C. Evidence of Insurance Filed with Village Administrator. All policies of insurance or certified copies thereof and written evidence of payment of required premiums, shall be filed and maintained with the Village Administrator during the term of the franchise or any renewal thereof.

D. Village's Right to Revise Insurance Requirements. The Village reserves the right to revise the insurance requirements stated in this Chapter at any time during the term of any franchise granted under this Chapter.

E. No Waiver of Performance Bond. Neither the provisions of this Chapter nor any insurance accepted by the Village pursuant hereto, nor any damages recovered by the Village thereunder, shall be construed to excuse faithful performance by the Grantee or limit the liability of the Grantee under this franchise or for damages, either to the full amount of the bond or otherwise.

5.44.410 Waiver of charges. During the term of a franchise and upon request by the Village, the Grantee shall provide free basic and extended basic service to any and all Village buildings used for municipal purposes and to all public and parochial schools within the franchise area and within one hundred and fifty (150) feet of existing cable plant. The Grantee may charge for usual installation costs. The Village may extend service within each building so served as long as such extensions are in compliance with applicable FCC rules and regulations.

5.44.420 Protection of non-subscribers. A Grantee shall at all times keep its cables and other appurtenances used for transmitting signals shielded in such a manner that there will be no interference with signals received by radios or televisions not connected to the Grantee's service and must shield against entry of transmitted signals from sources not connected to the Grantee's service.

5.44.430 Grantee rules. A Grantee may promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the Grantee to exercise its rights and perform its obligations under the franchise and to assure uninterrupted service to all its subscribers. However, such rules, regulations, terms and conditions shall not be in conflict

with the provisions of this Chapter, the franchise agreement or state or federal law.

5.44.440 Unauthorized reception or use of cable services.

A. No Unauthorized Use. It shall be unlawful for any person to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of a Grantee's cable system within the franchise area for the purpose of enabling receiving any television signal, radio signal, picture, program or sound, without payment to the Grantee.

B. No Tampering. It shall be unlawful for any person, without the Grantee's consent, to willfully tamper with, remove or injure any cables, wires or equipment used by a Grantee for distribution of television signals, radio signals, picture, programs or sound.

C. Penalties. Any person violating or failing to comply with the provision of this Section shall be subject to a forfeiture for each day of violation or failure to comply, not to exceed \$300.00.

5.44.450 General. A. Compliance with Laws, Rules, And Regulations. In the event any valid law, rule or regulation of any governing authority or agency having jurisdiction, including but not limited to the FCC, contravenes the provisions of this Chapter subsequent to its adoption, the provisions hereof shall be superseded by any such valid law, rule or regulation to the extent that the provisions hereof are in conflict and contrary to any such law, rule or regulation.

B. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with this Chapter are hereby repealed to the extent of any such conflict.

C. Severability. Should any word, phrase, clause, sentence, paragraph, or portion of this Chapter or a franchise be declared to be invalid by a court of competent jurisdiction, such adjudication shall not affect the validity of this Chapter and the franchise as a whole, but shall only affect the portion thereof declared to be invalid; and the Village Board hereby expressly states and declares that it would nonetheless have passed this Chapter and granted the franchise had it known that any such word, phrase, clause, sentence, paragraph or portion of said Chapter or franchise were invalid.

D. Waiver or Exemption. The Village reserves the right to waive provisions of this Chapter or exempt a Grantee from meeting provisions of this Chapter, if the Village determines that such waiver or exemption is in the public interest.

E. Non-enforcement. Subject to the provisions of the Cable Act, a Grantee shall not be relieved of any obligation to comply with any of the provisions of this Chapter, the franchise agreement, or any rule, regulation, requirement or directive promulgated by the Village by reason of any failure of the Village or its officers, agents or employees to enforce prompt compliance nor shall such be considered a waiver thereof.

F. Force Majeure. Any delay, pre-emption, or other failure to provide cable service and to perform other duties contained in this

Chapter and the franchise agreement by the Grantee caused by factors beyond the Grantee's control, such as acts of God, labor disputes, non-delivery by program suppliers, war, riots, government order or regulation, shall not result in a breach of the terms of this Chapter or the franchise agreement. Grantee shall exercise reasonable efforts to cure promptly any such delays and the cause thereof, and performance under the terms of this Chapter and franchise agreement shall be excused by Village for the period of time during which such factors continue.

(Chapter 5.44 Ord. 003, Series 1997/Ord 415-81 Part 1(part), 1981).

Chapter 5.48

Hotel-Motel Room Tax

Sections

- 5.48.010 Imposition of Room Tax
- 5.48.015 Permit required-Fee
- 5.48.016 Permit issuance
- 5.48.017 Revocation and suspension
- 5.48.020 Collection of Tax
- 5.48.030 Liability for Unpaid Tax
- 5.48.040 Interest on Unpaid Taxes
- 5.48.050 Delinquent Tax Returns
- 5.48.060 Administration of Tax Collection
- 5.48.070 Penalty Assessment
- 5.48.080 Fraudulent Tax Returns
- 5.48.090 Records to be Maintained
- 5.48.100 Confidentiality of Records
- 5.48.110 Definitions
- 5.48.120 Penalty

5.48.010 Imposition Of Room Tax. Pursuant to Section 66.75, Wisconsin Statutes, a tax is imposed on the privilege and service of furnishing, at retail, rooms or lodging to transients by hotel keepers, motel operators and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required

for the use of the accommodations. Such tax shall be at the rate of seven percent (7%) of the gross receipts from such retail furnishing of rooms or lodgings. Such tax shall not be subject to the selective sales tax imposed by Section 77.52(2)(a)1, Wisconsin Statutes. (Ord. 007, Series 2000; Ord. 011-94, Part 1, 1994).

5.48.015 Permit Required; Fee. Every hotel keeper, motel operator or other persons furnishing accommodations under Section 5.48.10 shall file with the Clerk an application for a permit for each place of business. Every application for a permit shall be made upon a form prescribed by the Clerk and shall set forth the name under which the applicant intends to transact business, the location of the business and such information as the Clerk requires. The application shall be signed by the owner if a sole proprietor and, if not a sole proprietor, by the person authorized to act on behalf of such sellers. At the time of making an application, and annually thereafter, the applicant shall pay a fee of \$50. The permit shall be renewed each year by July 1. (Ord. 009, Series 2010, Part 1)

5.48.016 Permit Issuance. After compliance with Section 5.48.010 and 5.48.015, the Clerk shall grant and issue to each applicant a separate permit for each place of business within the Village. Such permit is not assignable and is valid for only the person in whose name it is issued and for the transaction of business at the place designated therein. It shall, at all times, be conspicuously displayed at the place for which issued. (Ord. 009, Series 2010, Part 2)

5.48.017 Revocation and Suspension. When any person fails to comply with the provisions of this chapter, the Clerk may, upon 10 days' notification and after affording such person the opportunity to show cause why the permit shall not be revoked, revoke or suspend any or all permits held by such person. The Clerk shall give to each person written notice of the suspension or revocation of any permits. The Clerk shall not issue a new permit after revocation of a permit until Sections 5.48.020, 5.48.040, 5.48.050, and 5.48.070 have been complied with. A fee of \$50 shall be imposed for the renewal or issuance of a permit which has been previously suspended or revoked. (Ord. 009, Series 2010, Part 3)

5.48.020 Collection Of Tax. The room tax imposed by Section 5.48.010 for each calendar quarter is due and payable and must be received by the Finance Director at the Village Hall on or before the last business day of the following month succeeding the calendar quarter for which it is imposed. The business entity collecting the tax shall be entitled to retain one percent of the amount collected as reimbursement for its costs and efforts in the collection of the tax and the reporting requirements of this chapter.

A. Quarterly Room Tax Returns. A return shall be filed with the Finance Director on or before the same date on which such tax is due and payable. Such return shall be on a form provided by the Village and shall show the gross receipts of the preceding calendar quarter from such retail furnishing of rooms or lodging, the amount of taxes imposed for such period, and such other information as the Finance

Director deems necessary, provided it is directly related to the tax. (Ord. 011-94, Part 1, 1994).

5.48.030 Liability For Unpaid Tax. The room tax imposed hereunder shall be a continuing liability upon the business entity or person upon whom it is imposed until paid in full. Business successors shall be liable for all quarters for which a return has not been filed and payment not received. (Ord. 008, Series 2012, Part 1; Ord. 011-94, Part 1, 1994).

5.48.040 Interest On Unpaid Taxes. All unpaid taxes under this chapter shall bear interest at the rate of twelve percent per annum from the due date of the return until the first day of the month following the month in which the tax was paid. (Ord. 011-94, Part 1, 1994).

5.48.050 Delinquent Tax Returns. Tax returns required hereunder and not timely filed shall be deemed delinquent and shall be subject to a ten-dollar late filing fee. (Ord. 011-94, Part 1, 1994).

5.48.060 Administration Of Tax Collection. A. The Finance Director shall be responsible for the administration and collection of the room tax. The Finance Director may, by field audit, determine the tax required to be paid to the Village or the refund due to any person under this section. The determination shall be made upon the basis of the facts contained in the return being audited and upon any other information available to the Finance Director. The Finance Director is authorized to examine and inspect the books, records memoranda and property of any person which are directly related to the tax or which have a direct bearing upon the gross receipts upon which the tax due is determined in order to verify the tax liability of that person or of another person. Nothing herein shall prevent the Finance Director from making a determination of tax at any time.

B. The room tax collection shall be allocated to the room tax fund, for the purposes of funding economic development, public works activities and capital improvement projects as determined by the Village Board. (Ord. 011-94, Part 1, 1994).

5.48.070 Penalty Assessment. If any person fails to timely file a return, as required by this chapter, the Finance Director shall make an estimate of the amount of the gross receipts upon which the tax is determined. Such estimate shall be made for the period for which such person failed to make a return and shall be based upon any information which is in the Finance Director's possession or may come into his or her possession or such other information as may have a bearing upon the determination of gross receipts. On the basis of this estimate the Finance Director shall compute and determine the amount required to be paid to the Village, adding to the sum thus arrived at a penalty equal to ten percent thereof. Such determination may be made for each quarterly period for which no return is filed. Such penalty shall be due upon written notice to the business entity or person owing the tax and shall not be in lieu of the tax due hereunder. (Ord. 011-94, Part 1, 1994).

5.48.080 Fraudulent Tax Returns. If a person files false or fraudulent return with the intent in either case to defect or evade the tax imposed by this chapter, a penalty of fifty percent shall be added to the tax required to be paid, exclusive of interest and other penalties. (Ord. 011-94, Part 1, 1994).

5.48.090 Records To Be Maintained. Every person liable for the tax imposed by this chapter shall keep or cause to be kept such records, receipts, invoices and other pertinent papers in such form so as to enable the Finance Director to determine the tax due hereunder. (Ord. 011-94, Part 1, 1994).

5.48.100 Confidentiality. A. All tax returns, schedules, exhibits, writings or audit reports relating to such returns on file with the Finance Director are deemed to be confidential, except the Finance Director may divulge their contents to the following and no others:

- (1) The person who filed the return.
- (2) Such other public officials when deemed necessary and after notification of the licensee.
- (3) The Village Administrator.

B. No person having an administrative duty under this section shall make known in any manner the business affairs, operations or information obtained by an investigation of records of any person on whom a tax is imposed by this section, the amount or source of income, profits, losses, expenditures, or any particular thereof set forth or disclosed in any return, or permit, any return or copy thereof to be seen or examined by any person, except as provided herein. (Ord. 011-94, Part 1, 1994).

5.48.110 Definitions. For the purpose of this chapter, the following terms shall have the meaning given herein:

A. "Hotel" or "motel" means a building or group of buildings in which the public may obtain accommodations for a consideration, including, without limitation, such establishments as inns, motels, tourist homes, tourist houses or courts, lodging houses, summer camps, bed and breakfast, apartment hotels, resort lodges, campgrounds, cabins and any other building or group of buildings in which the accommodations are available to the public, except accommodations rented for a continuous period of more than one month and accommodations furnished by any hospital, sanatoriums, or nursing homes, roominghouses, or by corporations or associations organized and operated exclusively for religious, charitable or educational purposes, provided that no part of the net earnings of such corporations and associations inures to the benefit of any private shareholder or individual.

B. "Gross receipts" has the meaning as defined in Section 77.51(11)(a), (b) and (c), Wisconsin Statutes, insofar as applicable. Any federal and state tax exempt transactions shall not be included in the definition of gross receipts.

C. "Person" shall include corporations, partnerships or other business entities.

D. "Transient" means any individual residing for a continuous period of less than one month in a motel, hotel, or other furnished accommodations available to the public. (Ord. 011-94, Part 1, 1994).

5.48.120 Penalty. Any violation of, or noncompliance with, any of the provisions of this chapter for which a penalty has not been prescribed herein shall subject the violator to a forfeiture of not less than fifty dollars nor more than two hundred fifty dollars, together with the costs of prosecution and in default of payment thereof to imprisonment in the county jail until such forfeiture has been paid but not to exceed fifteen days. Each day of violation or noncompliance shall constitute a separate offense."

(Chapter 5.48 Created by Ord. 011-94, Part 1, 1994)

Chapter 5.50

HOTEL REGISTRATION AND SECURITY

Sections:

- 5.50.010 Written register.
- 5.50.020 Twenty-four hour manager on premises.
- 5.50.030 Access to register by law enforcement.
- 5.50.040 Access to outside 911 phone service.
- 5.50.050 Prohibiting fraud in obtaining lodging.
- 5.50.060 Limit on guests per room.
- 5.50.070 Limit on persons congregating in room.
- 5.50.080 Violation may be basis for license revocation.
- 5.50.090 Penalty

5.50.010 Written register. A. Every owner, keeper or proprietor of any lodging house, rooming house, motel or hotel shall keep a register wherein all guests, roomers or lodgers shall inscribe their names and permanent address upon their procuring lodging, a room or accommodations. The owner, keeper or proprietor shall verify the credit card signature of each guest, roomer or lodger making payment by way of credit card, with the signature inscribed upon the hotel register. If the signature as inscribed on the register does not appear to reasonably match the signature on the credit card, further identification shall be requested of the type requested of persons paying in cash. The owner, keeper or proprietor shall require identification of any guest, roomer or lodger paying in cash, at the time of registration, and in a valid and current format showing the person's name and date of birth, and may be, but is not limited to, a driver's license, state-issued picture identification card, or such other form as will reasonably assure that the registrant is, in fact, the person under whose name such lodging, room or accommodation is, in fact, being procured, and shall maintain a photocopy of such identification or transpose the identifying information in the registration ledger. For any guest, roomer or lodger taking occupancy through a prearranged reservation in the name of a corporation, business, association or any other entity, the owner, keeper or proprietor shall request identification of the specific guest, roomer or lodger at the time of registration as will reasonably assure such person to be the person for whom the lodging, room or accommodations have been procured.

B. Before furnishing any lodging for hire to any person in any lodging house, or before furnishing any accommodations to any guest of any motel or hotel, the proprietor, manager or owner thereof shall require the person to whom such lodgings are furnished, or room is rented or accommodations furnished, to inscribe his or her name and

permanent address in such register , kept for that purpose as heretofore provided, and shall set opposite the name the time that said name was so inscribed and the room occupied by such lodger, roomer or guest.

5.50.020 Twenty-four hour manager on premises. Every owner, keeper or proprietor of any lodging house, rooming house, motel or hotel shall, at all times, during which the premises accommodate guests, roomers or lodgers maintain on duty a responsible management representative or designee. Such management representative or designee shall be an individual capable of assisting and cooperating with the police or other law enforcement officials in maintaining the public health, welfare and safety.

5.50.030 Access to register by law enforcement. All information required to be procured and kept pursuant to Section 5.50.010 of this chapter shall be provided to any federal, state or local sworn law enforcement officer having the lawful power to arrest, upon demand of the officer. The officer shall have a reasonable suspicion that such information is relevant to a then-pending inquiry or investigation at the time he makes the demand. Nothing in this requirement shall be construed as giving any such officer any greater right or license to enter a room or invade privacy than the officer shall otherwise possess as a matter of common law, probable cause, statutory right or warrant.

5.50.040 Access to outside 911 phone service Every owner, keeper or proprietor of any lodging house, rooming house, motel or hotel shall keep and maintain in each and every rental unit, a telephone quipped for outgoing calls, and which telephone will allow any person therein to place a direct call to 911, the Grafton Police Department, or the Grafton Fire Department. The existence of a minor dialing requirement, such as dialing 9 to obtain an outside line, shall not be deemed a violation of this section.

5.50.050 Prohibiting fraud in obtaining lodging. No person shall procure or provide lodging in any lodging house, rooming house, motel or hotel, or any services therefrom, through misrepresentation or production of false identification, or identification which misrepresents the identity of the person procuring or sharing in such lodging or service.

5.50.060 Limit on guests per room. No owner, keeper or proprietor of any lodging house, rooming house, motel or hotel shall rent or provide a room for any number of persons greater than the sleeping accommodations provided within the particular rental unit.

5.50.070 Limit on persons congregating in room. No owner, keeper or proprietor, guest or resident of any lodging house, rooming house, hotel or motel shall allow to congregate within any room or single rental unit a number of persons which is greater than three times the number of persons for whom sleeping accommodations are provided within the single room or rental unit.

5.50.080 Violation may be basis for license revocation. In addition to any forfeiture under Section 5.50.090 for violation of this chapter, the city may institute an action or proceeding to enjoin a violation, and such violation shall constitute the basis for revocation of any and all licenses and permits where the Village is the issuing authority.

5.50.090 Penalty. Any person who shall violate any provisions of this chapter shall, upon conviction thereof, forfeit not less than fifty dollars, nor more than one hundred fifty dollars, together with the costs of prosecution.

(Ord. 020, Series 1999, Part 1).